

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

69L-24.0231 Benefits and Administration Trust Fund Penalties Improper Filing Practices.

(1)(a) through (c) No change.

(d) If the electronic First Report of Injury or Illness is assigned an Application Acknowledgement Code of Transaction Accepted (TA) within 30 days after the Claim Administrator, as defined in Rule 69L-56.002, F.A.C., is first approved and required by the Division to send electronic First Reports of Injury or Illness to the Division pursuant to paragraph 69L-56.300(1)(d), F.A.C., the Insurer, as defined in Rule 69L-56.002, F.A.C., shall not be assessed a filing penalty pursuant to paragraph 69L-24.0231(1)(c), F.A.C., based on the filing requirements established in subsections 69L-56.301(1) and (2), F.A.C. After the completion of the 30 day period referenced above, all electronic First Reports of Injury or Illness must be assigned an Application Acknowledgement Code of Transaction Accepted (TA) by the Division within the required filing timeframes established in subsections 69L-56.301(1) and (2), F.A.C., to be considered timely filed.

(2) through (6) No change.

Specific Authority 440.13(11)(b), 440.185, 440.591, 440.593(5) FS. Law Implemented 440.13(11)(b), 440.185(9), 440.20(8)(a) FS. History—New 8-29-94, Amended 5-14-95, 6-4-97, 11-28-01, Formerly 38F-24.0231, 4L-24.0231, Amended 1-8-04.

**Section II  
Proposed Rules**

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE NOS.:	RULE TITLES:
12A-1.096	Industrial Machinery and Equipment for Use in a New or Expanding Business
12A-1.097	Public Use Forms

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.096, F.A.C. (Industrial Machinery and Equipment for Use in a New or Expanding Business), is to: (1) incorporate the provisions of Chapter 2006-56, L.O.F., which amends Section 212.08(5)(b), F.S. (Machinery and equipment used to increase productive output); and (2) revise the requirements for the administration of the exemption provided for industrial machinery and equipment used in a new or expanding business consistent with Section 212.08(5)(b), F.S., as amended.

Chapter 2006-56, L.O.F., deletes the \$50,000 tax threshold per calendar year on the purchase of industrial machinery and equipment used to increase productive output by certain industries. All industries will no longer be required to meet the

\$50,000 tax threshold per calendar year. This law also revises the exemption for machinery and equipment used in mining operations by removing the requirement that the exemption is only available by taking a credit against severance taxes and removing the requirement that mining operations must show an increase in the creation of new jobs. The proposed amendments remove these obsolete requirements.

The proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), adopt, by reference, changes to Form DR-1214, Application for Temporary Tax Exemption Permit.

SUMMARY: This is the second notice of intended action that has been filed for these proposed rule amendments. A notice of intended action for these amendments was originally published on August 10, 2007, and a hearing was held on September 5, 2007. However, due to a clerical error, Rule 12A-1.096, Florida Administrative Code (Sales and Use Tax; Industrial Machinery and Equipment for Use in a New or Expanding Business) was not included in the notice of cabinet meeting that was published on November 2, 2007, and therefore, both the substantive rule and the accompanying forms rule (12A-1.097, Florida Administrative Code) were withdrawn from consideration by the Governor and Cabinet at their meeting on November 14, 2007. The Department is restarting the adoption process for these proposed rule amendments in accordance with Section 120.54(3)(a), Florida Statutes. These proposed amendments are identical to those originally noticed on August 10, 2007. The proposed amendments to Rule 12A-1.096, F.A.C. (Industrial Machinery and Equipment for Use in a New or Expanding Business), clarify that a “fixed location” is a location or plant site that is used, or intended to be used, for an extended or indefinite period of time for spaceport activities or for manufacturing, processing, compounding, or producing items of tangible personal property for sale. The definition of “mining activities,” rendered obsolete by Chapter 2006-56, L.O.F., is removed. Examples are added to the definition of the term “physically comparable,” for clarity. The term “production process” is clarified to mean that the production process may include quality control activities after the items have been packaged, such as good manufacturing practices as mandated by the Federal Food and Drug Administration to detect adulterated food or food that has been prepared, packaged, or held under insanitary conditions. Additional provisions are added to clarify that the production process does not include product design activities. The proposed amendments define the terms “purchase” and “purchase agreement” for purposes of the exemption.

The proposed amendments revise the provisions describing the terms “new business” and “expanding business.” Pursuant to these proposed amendments, businesses that purchase additional machinery and equipment to begin manufacturing component parts for existing lines of products that were previously purchased from vendors will be classified as an

“expanding business” and will be required to meet the statutory requirement to increase productive output. For these expanding businesses, that statutory requirement will be met when the first component part is manufactured for existing lines of products, as the production of that first component part represents a 100 percent increase in productive output of that component part. In addition, the proposed amendments clarify that the physical productive output measurement must be based on physical production data that is directly relevant to the business and/or product(s) being produced. Examples are added to the provisions for a “new business” and for an “expanding business” to clarify this classification.

The proposed amendments revise the provisions describing the term “expanding business,” removing provisions regarding the \$50,000 tax threshold per calendar year on the purchase of industrial machinery and equipment used to increase the productive output of tangible personal property. This tax threshold requirement was repealed by Chapter 2006-56, L.O.F. The proposed amendments also remove provisions regarding mining activities rendered obsolete by Chapter 2006-56, L.O.F.

The proposed amendments provide that existing products that merely incorporate newer technology are not considered to be a distinct and separate economic activity.

The proposed amendments clarify that an application for refund must meet the requirements of Section 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C., to be considered complete.

The proposed amendments provide additional examples of types of industrial machinery and equipment to clarify whether post-production machinery and equipment used for refrigerated, frozen, or heated storage of finished goods inventory qualifies for the exemption. Provisions are added to clarify that conveyors used to transport work-in-process within the production line at the fixed location will qualify for exemption. Additional examples are provided, and obsolete provisions are removed, to clarify whether computers and related equipment will be considered a part of the production process and qualify for exemption. Obsolete provisions regarding agricultural equipment, which became fully exempt under the provisions of Section 212.08(3), F.S., as amended in 2005, are removed. Additional provisions are included to clarify whether monitoring equipment, office equipment, security systems, motor vehicles, and locomotives or railroad cars will qualify for the exemption.

The proposed amendments consolidate and clarify provisions for the application of the exemption to leases of machinery and equipment for new and expanding businesses.

The proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), adopt, by reference, changes to Form DR-1214, Application for Temporary Tax Exemption Permit.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.0515(7), 212.07(1)(b), 212.08(5)(b)4., (7), 212.11(5)(b), 212.12(1)(b)2., 212.17(6), 212.18(2), (3), 213.06(1), 376.70(6)(b), 376.75(9)(b), 403.718(3)(b), 403.7185(3)(b), 443.171(2), (7) FS.

LAW IMPLEMENTED: 92.525(1)(b), (3), 95.091, 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133, 201.17(1)-(5), 202.11(2), (3), (6), (16), (24), 202.17, 202.22(3)-(6), 202.28(1), 203.01, 212.02, 212.03, 212.0305, 212.031, 212.04, 212.05, 212.0501, 212.0515, 212.054, 212.055, 212.06, 212.0606, 212.07(1), (8), (9), 212.08, 212.084(3), 212.085, 212.09, 212.096, 212.11(1), (4), (5), 212.12(1), (2), (9), (13), 212.13, 212.14(5), 212.17, 212.18(2), (3), 213.235, 213.255(2), (3), 213.29, 213.37, 215.26, 219.07, 288.1258, 376.70, 376.75, 403.717, 403.718, 403.7185, 443.036, 443.121(1), (3), 443.131, 443.1315, 443.1316, 443.171(2), (7) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: January 8, 2008, 10:00 a.m.

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Larry Green at (850)922-4830. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jeffery L. Soff, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4719

THE FULL TEXT OF THE PROPOSED RULES IS:

12A-1.096 Industrial Machinery and Equipment for Use in a New or Expanding Business.

(1) Definitions – The following terms and phrases when used in this rule shall have the meaning ascribed to them except where the context clearly indicates a different meaning:

(a) “Fixed location” means ~~a being permanently affixed to one (1) location or plant site that is used, or intended to be used, for an extended or indefinite period of time for spaceport activities or for manufacturing, processing, compounding, or producing items of tangible personal property for sale.~~ The term also includes a location where a any portable plant which is set up for a period of not less than six months in a stationary manner so as to perform the same industrial manufacturing, processing, compounding, or production process that could be performed at a permanent location or plant site. The geographical limits of the fixed location for purposes of this rule are limited to the immediate permanent location or plant site. Facilities or plant units that are within the same building, or that are on the same parcel of land if not contained in a building, are considered to be one fixed location.

(b) “Industrial machinery and equipment” means tangible personal property or other property with a depreciable life of 3 years or more that is used as an integral part in the manufacturing, processing, compounding, or production of tangible personal property for sale or is exclusively used in spaceport activities. Buildings and their structural components are not industrial machinery and equipment unless the building or structural component is so closely related to the industrial machinery and equipment that it houses or supports that the building or structural component can be expected to be replaced when the machinery and equipment itself is replaced. Heating and air conditioning systems are not considered industrial machinery and equipment, unless the sole justification for their installation is to meet the requirements of the production process, even though the system may provide incidental comfort to employees, or serves, to an insubstantial degree, nonproduction non-production activities. For example, a dehumidifier installed for the sole purpose of conditioning air in a factory, where the manufacturing of electronic components requires a controlled-humidity environment, will be considered industrial machinery and equipment. (See subsection ~~(8)(9)~~ of this rule.)

(c) “Integral to” means that the machinery and equipment provides a significant function within the production process, such that the production process could not be complete without that machinery and equipment.

(d) “Manufacture, process, compound, or produce for sale” means the various industrial operations of a business where raw materials will be put through a series of steps to make an item of tangible personal property that will be sold. The industrial operations must bring about a change in the composition or physical nature of the raw materials. Where materials are merely repackaged or redistributed, those operations are not manufacturing, processing, compounding, or producing for sale. The item of tangible personal property may be sold to another manufacturer for further processing or for inclusion as a part in another item of tangible personal property that will be sold, or the item may be sold as a finished product

to a wholesaler or an end consumer. The business performing the manufacturing, processing, compounding, or production process may or may not own the raw materials. However, the phrase “manufacture, process, compound, or produce for sale” does not include fabrication, alteration, modification, cleaning, or repair services performed on items of tangible personal property belonging to others where such items of tangible personal property are not for sale.

~~(e) “Mining activities” means phosphate and other solid minerals severance, mining, or processing operations. Mining activities end at the point where the mineral is readily identifiable as the final product of mining or where it is ready to be compounded or mixed with other materials to form a new material. (See subsection (4) of this rule.)~~

~~(e)(f)~~ “Physically comparable” means the similarity or equivalency of the characteristics of the items of tangible personal property being manufactured, processed, compounded or produced. Physical comparability applies to the units used to measure the increase in productive output of an expanding business.

1. Example: All models of microwave ovens made by a manufacturer, regardless of specific features, would be physically comparable. However, if the manufacturer also made coffee makers, the coffee makers would not be physically comparable to microwave ovens, even though both items are generally considered small kitchen appliances.

2. Example: A beverage manufacturer produces a variety of soft drinks in various sized cans and bottles. The production of the various sized cans and bottles of soft drinks is not physically comparable. However, production is physically comparable when converted to a common physical unit, such as gallons of product

~~(f)(g)~~ “Production process” or “production line” means those industrial activities beginning when raw materials are delivered to the new or expanding business’ fixed location and generally ending when the items of tangible personal property have been packaged for sale, or are in saleable form if packaging is not done. However, the production process may include quality control activities after the items have been packaged (or are in salable saleable form if packaging is normally not done), such as if such quality control activities are required by good manufacturing practices as mandated by the Federal Food and Drug Administration to detect adulterated food or food that has been prepared, packaged, or held under insanitary conditions or mandated by state or federal government agencies.

1. The production process may encompass more than one fixed location if the business transfers work-in-process from one fixed location to a second fixed location for further manufacturing, processing, compounding, or production. For example, a company purchases machinery and equipment to produce raw orange juice at one fixed location, and this raw

orange juice is transferred as work-in-process to a second fixed location where the company will use the raw orange juice to make five different products.

2. A production process does not include natural processes occurring before raw material is delivered to the receiving operation or after the packaging operation. For example, the natural transformation of grass or feed into raw milk by dairy cows is not part of the production process. In this case, the production process begins with when the cows (i.e., raw materials) are brought into the milking parlor. ~~The~~ Neither is the planting, growing, or harvesting of crops, and not the raising of livestock or poultry are not ; part of the production process. ~~The~~ Also, the natural aging or fermentation of alcoholic beverages or other food products, after they have been packaged, is also not part of the production process. ~~The~~ There, the production process ends when the alcoholic beverage or other food product has been packaged for sale.

3. The production process does not include product design activities. For example, the computer aided design of a product where the final design program or computer file for that product will be sent to or downloaded to industrial machinery and equipment for the physical creation of the product is not a part of the production process. Similarly, the production process for printed materials does not include the initial conception or creation of the written matter. For example, the writing of a story by a reporter for subsequent printing in a newspaper is not a part of the production process. (See subsection (8) ~~paragraph (9)(b)~~ of this rule regarding machinery and equipment and the production process.)

~~(g)(h)~~ (h) "Productive output" ordinarily means the number of units actually produced by a single plant or operation in a single continuous 12-month period. The increase in productive output ~~is shall be~~ measured by the output for 12 continuous months immediately following the completion of the installation of machinery and equipment for the expansion project as compared to the productive output of 12 continuous months immediately preceding the beginning of the installation of machinery and equipment for the expansion project. However, if a different 12-month continuous period would more accurately reflect the increase in productive output as a result of a business expansion, the increase in productive output will be measured during that alternate 12-month continuous period, provided that prior to the start of production by the expanded business the Executive Director or the Executive Director's designee agrees to such alternate measuring period. Such alternate continuous 12-month measuring period approved by the Executive Director or the Executive Director's designee must begin within 24 months following the completion of installation of qualifying machinery and equipment. If an alternate 12-month measuring period is requested by the business entity and is agreed to by the Executive Director or the Executive Director's designee, only the selected alternate 12-month period will be used to

measure the increased productive output for the business expansion, even though some 12-month period other than the selected and approved 12-month period may show a production increase of 10 percent or more as a result of the expansion project. Productive output may not be measured by sales dollars or by production labor hours for the purposes of this exemption.

(h) "Purchase," "purchases," or "purchasing" means the transfer of title or possession, or both, of industrial machinery and equipment for a consideration. The terms also include the acquisition of industrial machinery and equipment under a lease or rental agreement.

(i) "Purchase agreement" means a document, in the form of a purchase order issued by the purchaser, a contract for purchase with a seller or vendor, a memorandum of understanding, or a lease or rental agreement with a lessor.

~~(j)(i)~~ (j)(i) "Spaceport activities" means those activities as defined in Section 212.02, F.S. Florida Statutes.

(2) New Business.

(a) The purchase of industrial machinery and equipment, parts and accessories, and the installation labor thereof, is exempt from tax when purchased by a new business which uses such machinery and equipment at a fixed location in this state for exclusive use in spaceport activities, or to manufacture, process, compound, or produce items of tangible personal property for sale.

(b) Machinery and equipment must be purchased, or a purchase agreement made, before the new business begins spaceport activities or starts production, and delivery of the purchased items must be made within 12 months from the beginning of spaceport activities or the start of production.

(c) The date of purchase of the machinery and equipment is established by the date of the purchase agreement. If no purchase agreement was made, or in the absence of proof that a purchase agreement was made prior to the determined beginning of spaceport activities or the start of production, the machinery and equipment vendor's sales invoice will be the controlling document for determining whether the machinery and equipment qualifies for the exemption. No exemption will be allowed even though delivery of machinery and equipment is made within 12 months from the beginning of spaceport activities or the start of production if the machinery and equipment was ordered after the beginning of spaceport activities or the start of production. If a purchase agreement that was made prior to the start of production is amended or changed after the start of production, any amendments or changes that increase the quantity of an item of machinery or equipment will not qualify for the exemption. Any amendments or change orders to that purchase agreement that provide for the substitution of a like kind item of machinery or equipment will qualify for the exemption.

(d)1. The start of production ~~is shall be~~ the date that a product is manufactured, processed, compounded, or produced where such product will be inventoried for sale or will be immediately sold. However, if this date does not reflect the actual start of production, the date of the start of production ~~will shall~~ be determined by the Executive Director or the Executive Director's designee on a case by case basis. In such cases, the business is required to shall maintain sufficient records to enable the Executive Director or the Executive Director's designee to make a proper determination as to the initial production activities of the new facility. (See subsection ~~(6)(7)~~ of this rule for record keeping requirements.)

a. Initial test or trial runs necessary to calibrate or evaluate the operation of machinery and equipment, where the products made are scrapped or sold for salvage value, are not considered to be the start of production. The operation of machinery and equipment at less than full capacity, where the products made are inventoried or immediately sold, is considered to be the start of production.

b. Production is considered to have started even though the production line may not be complete, if any part(s) of the production process is subcontracted to others and a finished product can be inventoried or immediately sold.

2. The beginning of spaceport activities ~~is shall be~~ the date that industrial machinery and equipment is first exclusively used for that purpose. However, if this does not reflect the actual beginning of spaceport activities, the date ~~will shall~~ be determined by the Executive Director or the Executive Director's designee on a case-by-case basis. In such cases, the business is required to shall maintain sufficient records to enable the Executive Director or the Executive Director's designee to make a proper determination as to the beginning of spaceport activities of the new facility. (See subsection ~~(6)(7)~~ of this rule for record keeping requirements.)

(e) The Executive Director or the Executive Director's designee ~~will shall~~ determine if a business qualifies for the exemption as a new business, based on the facts in each particular case.

1. A new business means a newly-formed company that opens a facility or plant, at a fixed location in this state, to manufacture, process, compound, or produce items of tangible personal property for sale, or to exclusively use industrial machinery and equipment in spaceport activities.

2. A new business means an addition to, or the enlargement of, an existing facility or plant, or the installation of additional machinery and equipment, for the purpose of manufacturing, processing, compounding, or producing items of tangible personal property for sale that represent a distinct and separate economic activity from other items that have been or are being produced at that same fixed location, or to exclusively use industrial machinery and equipment in distinct and separate spaceport activities. For example, a company that currently manufactures washing machines would be

considered a new business for the purpose of installing a dedicated assembly line for the manufacturing of refrigerators. A new business does not mean an addition to, or the enlargement of, an existing facility or plant, or the installation of additional machinery and equipment at an existing facility or plant, for the purpose of manufacturing, processing, compounding, or producing component parts that were previously purchased from, or fabricated by, outside sources for inclusion in that business' finished items of tangible personal property for sale. (See subsection ~~(4)(5)~~ of this rule regarding manufacturing business classification factors.)

3. A new business means opening a new facility or plant, at a fixed location in this state, to manufacture, process, compound, or produce an item of tangible personal property for sale, or to exclusively use industrial machinery and equipment in spaceport activities, provided no other facility or plant in this state that manufactured, processed, compounded, or produced the same or a similar item of tangible personal property, or performed the same or a similar spaceport activity, at a fixed location in this state, was closed to open the new facility or plant, or will be closed within 12 months. However, this limitation concerning the closure of a facility or plant is not applicable to a mining activity when a mine is closed due to the exhaustion or depletion of the mined resource such that mining is no longer economically feasible at that location.

4. A new business does not mean the change of ownership of an existing facility or plant, at a fixed location in this state, that manufactures, processes, compounds, or produces items of tangible personal property for sale, or exclusively uses industrial machinery and equipment in spaceport activities, by a purchase arrangement, merger, or some other similar means, unless such facility or plant ceased doing productive operations for a period of not less than 12 months.

(3) Expanding Business.

(a) The purchase of industrial machinery and equipment, parts and accessories, and the installation thereof, is exempt from tax when purchased by an expanding business that uses such machinery and equipment at a fixed location in this state to increase the productive output of tangible personal property that is manufactured, processed, compounded, or produced for sale by not less than 10 percent, or for exclusive use in spaceport activities. Industrial machinery and equipment, parts and accessories, and the installation labor thereof, purchased by a business for the purpose of expanding spaceport activities, or the operation of a plant at an existing fixed location in this state to manufacture, process, compound, or produce items of tangible personal property for sale is exempt from any amount of taxes imposed in excess of \$50,000 per calendar year. The taxpayer may elect to pay the entire \$50,000 in tax directly to the Department at the beginning of the expansion project or at the beginning of the calendar year, or accrue or pay the tax on each qualifying purchase until the \$50,000 tax limitation is reached. The business entity may then extend a Temporary Tax

Exemption Permit in lieu of paying any additional sales tax in excess of the \$50,000 in tax for the remainder of the calendar year. For each subsequent year the project is ongoing, the taxpayer may again elect to pay the entire \$50,000 in tax directly to the Department at the beginning of the calendar year, or accrue or pay the tax on each qualifying purchase until the \$50,000 tax limitation is reached.

~~(b)1. Only the actual sales or use tax imposed on qualifying purchases for the calendar year shall apply to the \$50,000 tax threshold even though the tax may be paid in a subsequent calendar year.~~

~~2. EXAMPLE 1. Sales or use tax paid to the state in January 1999 for the period ending December 31, 1998, would be allowed as part of the \$50,000 tax threshold for 1998, since the tax paid with the December 1998 sales tax return would have been imposed in 1998.~~

~~3. EXAMPLE 2. Sales or use tax paid to the state in January 1999 for the period ending December 31, 1998, would not be allowed as part of the \$50,000 tax threshold for 1999, since the tax paid with the December 1998 sales tax return would have been imposed in 1998.~~

~~4. Expanding printing facilities or printing plant units are not subject to the \$50,000 tax threshold.~~

~~(b)(e) The Executive Director or the Executive Director's designee will shall determine whether a business qualifies for the exemption as an expanding business, based upon the facts of each case using the following guidelines, provided the requirements of paragraphs (3)(a) and (d) are complied with:~~

~~1.a. An expanding business means an addition to, or the modernization or enlargement of, an existing facility or the installation of additional machinery and equipment to manufacture, process, compound, or produce an item of tangible personal property that which is already being produced at that fixed location in this state or which is similar to an item of tangible personal property that which is already being produced at that fixed location.~~

~~b. An expanding business means an addition to, or the modernization or enlargement of, an existing facility or the installation of additional machinery and equipment to begin manufacturing, processing, compounding, or producing a component item of tangible personal property that will be incorporated into a finished item of tangible personal property for sale that is already being produced at that fixed location. When the component item of tangible personal property is manufactured, processed, compounded, or produced, the completion of the first component item meets the required productive output increase. When the business manufactures, processes, compounds, or produces that component for sale to others and incorporates that component in other items of tangible personal property for sale, the business would be classified as a new business.~~

c. For example, a washing machine manufacturer that previously purchased water pumps from an outside supplier as component parts for the washing machines would be considered an expanding business, rather than a new business, when it purchases machinery and equipment to begin manufacturing its own component water pumps and does not offer the water pumps for sale to others. When the first component water pump is produced, the manufacturer, as an expanding business, meets the required productive output increase.

~~d.b. An expanding business means an addition to, or the modernization or enlargement of, an existing facility or the installation of additional machinery and equipment to perform a spaceport activity that is already being performed, or is similar to an activity that is already being performed, at that fixed location.~~

~~2. An expanding business means closing an existing plant or an operation in a plant in this state and moving it to a new location in this state within 12 months of the closing.~~

~~3. An expanding business means the purchase of an existing facility to manufacture, process, compound, or produce an item of tangible personal property that which is already being produced at that facility, or which is similar to an item of tangible personal property that which is already being produced at that facility.~~

~~(c)1.(d) To In order to qualify for an exemption as an expanding business, the taxpayer is required to shall provide information to the satisfaction of the Executive Director or the Executive Director's designee that the items purchased will shall be or have been used to increase the productive output of the existing facility or specific product line(s) by not less than 10 percent. An expanding business is allowed to specify whether the 10 percent increase in productive output is for the entire plant or for specific product line(s). However, where the increase in productive output applies to a product or component that becomes part of different product lines, the increase in productive output will be determined by measuring the increase in the combined output of the different product lines. Similarly, if the additional machinery and equipment affects the productive output of more than one product line, the increase in productive output must be measured by all of the product lines that have been affected.~~

~~a. Example: If For example, if a company purchases machinery and equipment that increases its production of raw orange juice by 25 percent, and this raw orange juice is used by the company to make five different products, the increase in productive output would be determined by measuring the volume increase in the combined output of all five different products.~~

~~b. Example: A beverage manufacturer that currently produces a variety of soft drinks in 12-ounce cans purchases machinery and equipment to begin making plastic bottles and also purchases additional mixing machinery and equipment to~~

make more syrup for overall beverage production. Effectively, there are two separate expansion projects for this manufacturer. The plastic bottle expansion project will meet the required productive output increase requirement upon production of the first bottle. However, the productive output increase requirement for the additional mixing machinery and equipment must be measured by the amount of beverages produced at the plant.

c. Example: A manufacturer of coffeemakers, toasters, and microwave ovens purchases replacement machinery and equipment that is only used to make components for the coffeemakers. The productive output increase may be measured just on the production of coffeemakers.

2. The physical productive output measurement must be based on physical production data, which is directly relevant to the business and/or the product(s) being produced. A physical productive output measurement based on indirect or minor, variable components is not a relevant measurement. For example, a relevant measurement for a furniture manufacturer would be the number of pieces of furniture manufactured, not the amount of glue, paint, stain, or varnish used in the manufacturing of furniture.

3. Expanding spaceport activities are not subject to the increase in productive output requirement.

(4) Mining Activities.

(a) The exemption for new and expanding mining activities is available only by way of a prospective credit against severance taxes due under Chapter 211, F.S. In order to qualify for the exemption, businesses engaged in mining activities must demonstrate the following:

1. A new business must demonstrate the creation of at least 100 new Florida jobs.

2. An expanding business that has 2,500 or fewer Florida employees must demonstrate the creation of new Florida jobs in an amount equal to at least 5 percent of its Florida employees; or

3. For an expanding business that has more than 2,500 Florida employees, that business must demonstrate the creation of new Florida jobs in an amount equal to at least 3 percent of its Florida employees.

4. In addition to the requirements of subparagraph 2. or 3. above, expanding mining businesses must also meet the requirements of paragraphs (3)(a) and (d) above.

(b) "New Florida job" means a new position created and filled within 24 months after the completion of construction of the new or expanded facility. The term includes a transfer of a position from an existing Florida operation so long as the transfer is the result of the closure or reduction of the other Florida operation. For an expanding business, the number of existing Florida employees shall be determined as of the date on which the business commences construction of the expansion.

~~(e) The Office of Tourism, Trade, and Economic Development shall certify the creation of new Florida jobs to the Department of Revenue. The exemption to new and expanding businesses engaged in mining activities will not be approved until the Department of Revenue has received such certification.~~

~~(4)(5) Manufacturing Business Classification Factors.~~

(a) When an additional product is made at an existing fixed location, the determination whether that business is classified for the exemption as a new business or as an expanding business will depend upon whether the additional product represents an economic activity that is distinct and separate from a product, or a group of products, that is already being manufactured, processed, compounded, or produced at that fixed location.

(b) The Executive Director or the Executive Director's designee will make a determination regarding the classification of a business' application for exemption on a case-by-case basis. The Department will be guided by the following factors when making a determination:

1. The general nature of the applicant's predominant existing business;

2. The Standard Industrial Classification (SIC) or North American Industry Classification System (NAICS) industry number of the existing product(s) versus the additional product;

3. The raw materials or components used to make the existing product(s) versus the additional product;

4. Whether the additional product is an alternative to, or represents a replacement for, the existing product(s);

5. The differences in machinery and equipment needed to make the existing product(s) versus the additional product; and

6. The units used to measure production of the existing product(s) versus the additional product.

(c) No single factor within paragraph (b) will decide whether the additional product represents a distinct and separate economic activity.

(d) Additional products Products that merely differ in size, color, flavor, style, packaging, or model line, or existing products that merely incorporate newer technology, are not considered to be a distinct and separate economic activity. For example, the manufacturing of electronic products based on digital technology is not a distinct and separate economic activity from the manufacturing of electronic products based on analog technology.

(e) The business claiming an exemption as a new business ~~has shall have~~ the burden of demonstrating that the additional product represents a distinct and separate economic activity from a product, or group of products, that is already being manufactured, processed, compounded, or produced at the fixed location.

~~(5)(6) Temporary Tax Exemption Permit – Refund or Credit.~~

(a) ~~To receive the exemption provided under subsections (2) or (3), a qualifying business entity must apply to the Florida Department of Revenue, Technical Assistance and Dispute Resolution, Post Office Box 7443, Tallahassee, Florida 32314-7443, for a temporary tax exemption permit. The business entity seeking a temporary tax exemption must file an Application for Temporary Tax Exemption Permit (Form ~~form~~ DR-1214) with the Department prior to receiving a permit or refund for the new or expanded business. Upon a tentative affirmative determination of the business's qualification for exemption by the Executive Director or the Executive Director's designee, a temporary tax exemption permit will ~~shall~~ be issued to, or a refund authorized for, the business entity.~~

~~2. To receive the exemption provided by subsection (4) for mining activities, a qualifying business entity must also file an Application for Temporary Tax Exemption Permit (Form DR 1214). However, those businesses will not be issued a temporary tax exemption permit, since the exemption is only available to that industry by way of a prospective tax credit.~~

(b)1. A temporary tax exemption permit may be issued only to the qualified business entity which will use the qualifying machinery and equipment at a fixed location in this state in manufacturing, processing, compounding, or producing tangible personal property for sale, or for exclusive use in spaceport activities. Such permit may be extended by the business entity to its vendor(s) or to its authorized contractor(s) operating under lump sum, cost plus, fixed fee, guaranteed price, or any other type of contract executed for the purpose of constructing a new or expanded business. The authorized contractor(s) may, likewise, extend the temporary tax exemption permit to its vendor(s) for use in purchasing qualifying machinery and equipment tax exempt. The business entity that extends the temporary tax exemption permit to a contractor or subcontractor for the purpose of authorizing that contractor or subcontractor to purchase qualifying machinery and equipment tax exempt will be responsible for paying the sales and use tax on any nonqualified items purchased tax exempt by the contractor or subcontractor.

2. Upon completion of purchases of qualifying machinery and equipment, the temporary tax exemption permit is required to ~~shall be~~ ~~hand~~ delivered to the Department or returned by certified or registered mail. If the permit is returned by mail, the permit should ~~shall~~ be mailed to the Florida Department of Revenue, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443.

(c)1. If a qualifying business entity fails to apply for a temporary tax exemption permit before purchasing qualifying machinery and equipment for a new or expanded business, or if the initial determination by the Executive Director or the Executive Director's designee is negative, the exemptions provided by subsections (2) and (3) above may be obtained only by a refund to the business entity of previously paid

taxes. Refunds will ~~shall~~ not be allowed until information has been provided to the satisfaction of the Executive Director or the Executive Director's designee that such machinery and equipment meets the requirements of this rule and is used as designated herein. Only the qualified business entity that ~~which~~ will use the qualifying machinery and equipment at a fixed location in this state in manufacturing, processing, compounding, or producing tangible personal property for sale, or for exclusive use in spaceport activities is entitled to request a refund of sales or use taxes paid on qualifying industrial machinery and equipment, or installation thereof. ~~A qualifying mining activity business under subsection (4) of this rule will receive the exemption by way of a credit against severance taxes instead of a refund of sales and use tax.~~

2. Before the owners of a qualifying new or expanded business under subsection (2) or (3) may request a refund of, ~~or a qualifying mining business under subsection (4) may request a credit for,~~ sales or use taxes paid by their contractors on qualifying industrial machinery and equipment, or installation thereof, the following certified statement(s) must be executed:

a. If a subcontractor was involved, the subcontractor must obtain a certified statement from its supplier(s) or other subcontractor(s) certifying that the supplier or other subcontractor has remitted the tax to the State, or certifying that the subcontractor has remitted use tax directly to the State. The subcontractor must then extend the statement(s) it has executed or obtained from suppliers or other subcontractors to the prime contractor; and,

b. The prime contractor must obtain a certified statement from its supplier(s) and subcontractor(s) certifying that the supplier or subcontractor has remitted the tax to the State, or certifying that the prime contractor has remitted use tax directly to the State. The prime contractor must then extend the statement(s) it has executed or obtained from its supplier(s) or subcontractor(s) to the qualifying new or expanded business entity to support the refund claim.

(d)1. The following is a suggested format for a certified statement that tax has been remitted to the State of Florida:

COMPANY, incorporated in the state of STATE, its undersigned officer who is duly authorized, hereby certifies to QUALIFYING NEW OR EXPANDING BUSINESS, OR CONTRACTOR, OR SUBCONTRACTOR it has paid sales tax to the Department of Revenue, State of Florida, totaling the sum of \$ \_\_\_\_\_. Said taxes were collected by COMPANY upon the sales of tangible personal property as evidenced by the attached invoice(s).

The company further certifies the sales tax for the attached invoice(s) was paid to the State of Florida in the month following the date of sale under sales tax number \_\_\_\_\_.



Dated at \_\_\_\_\_ County \_\_\_\_\_, Florida, this \_\_\_ day of \_\_\_ 20 \_\_\_.

AUTHORIZED OFFICER OF COMPANY

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

2. The above certified statement will not be necessary where the business entity claiming the refund has self-accrued and remitted the tax directly to the State of Florida. However, documentation that the tax has been remitted to the State of Florida in a timely manner is required.

(e) The right to a refund of, or credit for, sales or use taxes.

~~1. New Businesses.~~

~~1.a.~~ An application for refund by a new business must be filed within 3 years after the date the tax was paid in accordance with the timing provisions of Section § 215.26(2), F.S. However, an application for refund will shall not be considered complete pursuant to Section § 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C., and a refund will shall not be approved, before the date the new ~~manufacturing or printing~~ business first places a product in inventory or immediately sells a product, or before the date a new business engaged in spaceport activities begins those activities.

~~b. The right to a credit for sales or use taxes paid by a new business engaged in mining activities shall not be allowed before the date the Department of Revenue has received the certification of new Florida jobs. (See subsection (4) of this rule.)~~

~~2. Expanding Businesses.~~

~~2.a.~~ An application for refund by an expanding business must be filed within 3 years after the date the tax was paid in accordance with the timing provisions of Section § 215.26(2), F.S. However, an application for refund will shall not be considered complete pursuant to Section § 213.255(2) and (3), F.S., and Rule 12-26.003, F.A.C., and a refund will shall not be approved, before the date an expanding ~~manufacturing or printing~~ business can substantiate that the business expansion has increased the productive output at the existing facility by not less than 10 percent, or for an expanding business engaged in spaceport activities, before the date of completion of the installation of the machinery and equipment.

~~b. The right to a credit for sales or use taxes paid by an expanding business engaged in mining activities shall not be allowed before the date that business can substantiate that the business expansion has increased the productive output at the existing facility by not less than 10 percent, and the Department of Revenue has received the certification of new Florida jobs. (See subsection (4) of this rule.)~~

~~(6)(7)~~ Record Keeping Requirements. The applicant is required to shall maintain all necessary books and records to support the exemption. All such books, invoices, certified statements, and other records must shall be open for inspection

by the Department at all reasonable hours at the qualifying business entity's location in this state. Any qualifying business entity that which maintains such books and records at a point outside this state is required to shall make such books and records available for inspection by the Department where the general records are kept.

~~(7)(8)~~ Exclusions.

(a) The exemptions provided by subsections (2) and (3) do, (3), and (4) above shall not apply to machinery and equipment purchased or used by electric utility companies; communication companies; oil or gas exploration or production operations; publishing firms that do not export at least 50 percent of their finished product out of the state; any firm subject to regulation by the Division of Hotels and Restaurants of the Department of Business and Professional Regulation; or any firm which does not manufacture, process, compound, or produce items of tangible personal property for sale, or exclusively use machinery and equipment in spaceport activities.

(b) If a publishing firm is also the printer of the finished product, the Department will consider the business to be a printer for the purpose of the exemption. Therefore, the above indicated 50 percent requirement would not apply to such a business.

~~(8)(9)~~ Types of industrial machinery and equipment that will or will not qualify for the exemption.

(a) For the purpose of this exemption, industrial machinery and equipment includes:

1. Special foundations required for the support of such qualifying machinery and equipment;
2. Electrical wiring from the nearest power panel or disconnect box to the qualifying machinery and equipment; and
3. Plumbing connections necessary to connect the machinery and equipment to the nearest water supply or drain line.

(b) The exemption for industrial machinery and equipment ends at that stage of the production process where the product produced is placed in a package (or is in ~~salable~~ saleable form if packaging is normally not done) to be sold to the wholesaler, retailer, or other purchaser. Machinery and equipment for the refrigerated, frozen, heated, or otherwise temperature-controlled storage or warehousing of packaged finished goods inventory, solely for preservation purposes, prior to shipment or delivery to customers, is not a part of the production process. However, the production process may include quality control activities for perishable goods after the item of tangible personal property has been packaged (or is in saleable form if packaging is normally not done), if such quality control activities are required by good manufacturing practices mandated by state or federal government agencies.

1. Example: A manufacturer's cold storage facility that is used solely for the warehousing of processed and packaged foods is not a part of the production process regardless of the fact that custom palletized orders may be assembled within the cold storage facility for customers.

2. Example: A manufacturer produces a product that must be frozen to be in a salable condition. The facility that performs the freezing function also stores the product prior to shipment. The freezing facility will qualify as a part of the production process.

3. Example: Customer accessible refrigerated cases containing prepackaged meats in a butcher shop are not a part of the production process, regardless of the fact that a customer may request that a package of meat be recut, trimmed, or ground.

4. Example: Refrigerated cases containing meats or seafood that are only accessible by employees, where such meats or seafood may be further processed by packaging, cutting, grinding, or steaming or otherwise cooked, are a part of the production process.

5. Example: Bakery display cases where the baked goods are only accessible by bakery shop personnel for slicing or packaging are a part of the production process.

6. Example: Refrigerated or heated display cases or preparation units for deli items that are only accessible by deli personnel are a part of the production process.

7. Example: A citrus juice manufacturer is prohibited by federal regulations from selling its inventory of processed juice before required post-production microbial tests are performed. Accordingly, the refrigerated or frozen storage of processed juice is a part of the manufacturing process.

(c) Quality control equipment installed within the production line and required to perform quality checks on each item, article, or batch produced before the item, article, or batch can be sold qualifies for the exemption.

(d) Preproduction, random, or postproduction quality control equipment qualifies ~~shall qualify~~ as industrial machinery and equipment, if it is an integral part of the production process.

(e) Industrial machinery and equipment ~~that which~~ is an integral part of the production process, as well as in postproduction, such as a forklift ~~fork lift~~, will qualify for the exemption.

(f) Pollution control equipment, or sanitizing and sterilizing equipment, that is an integral part of the production process qualifies for exemption.

(g) Monitoring machinery and equipment, such as computers, video, or other sensing systems or devices that are essential to that is an integral part of the production process, qualifies for exemption.

(h) Machinery and equipment used to remove waste materials away from industrial machinery and equipment, where the removal is required to maintain the operation of the

production process, will qualify for exemption. For example, equipment used to remove wood chips and sawdust from around a qualified industrial wood lathe will qualify for exemption.

(i) Parts and accessories for industrial machinery and equipment purchased for replacement, maintenance, or repair purposes do not qualify for this exemption unless purchased by:

1. A new business before production or spaceport activities begin, and delivery is made within 12 months from the start of production or spaceport activities; or

2. An expanding business before the completion of the expansion project.

3. Parts and accessories purchased for replacement, maintenance, or repair that have already received an exemption pursuant to Section 212.08(7)(xx)(zz), F.S., ~~are not entitled to shall not be allowed an exemption as provided in this rule for the same amount of tax pursuant to this paragraph.~~

(j) Conveyers or related equipment used to transport raw materials from the storage area located at the fixed location to the production line, or to transport work-in-process within the production line at the fixed location, will qualify for exemption.

(k) Computers and computer equipment.

1. Computers and computer equipment, such as computer aided manufacturing (CAM) systems used to direct and control the functions of exempt industrial machinery and equipment will qualify for exemption, even though such computers may also have non-production related applications or uses.

2. Computers and computer equipment, such as computer aided design (CAD) systems used in the conception or design of a product and computers and computer equipment used to input original images or data into a publishing system are not a part of the production process and will not qualify for exemption.

3. Computers and computer equipment used in an ancillary function, such as data storage or backup, are not a part of the production process and will not qualify for exemption.

4. Portable computers, such as laptops and similar portable devices, including digital cameras, will not qualify for exemption unless such items are exclusively used at the fixed location.

5. The initial purchase of software for qualifying computers and computer equipment will qualify for exemption. However, software license renewals will not qualify for exemption.

~~(l) Machines used to control exempt industrial machinery and equipment through the reading or sensing of a tape or some other similar means will qualify for exemption.~~

~~(1)(m)~~ Masks, molds, jigs, or templates, where such property is integral to the production process, will qualify for exemption. The machinery and equipment that is integral to the

creation or maintenance of those masks, molds, jigs, or templates will also qualify for exemption, even though such machinery and equipment is not a direct part of the production process.

~~(m)(n)~~ Machinery and equipment used in the general repair or maintenance of the plant or production machinery and equipment, such as welders, gear-pullers, or bench grinders, does not qualify for the exemption. However, specialized machinery and equipment that is continuously required to keep production machinery and equipment calibrated or in optimum condition, such as a sharpening machine in a sawmill, will qualify for the exemption.

~~(o)~~ Machinery and equipment qualifying for a partial exemption from tax under Section 212.08(3), F.S., is not eligible for the exemption under Section 212.08(5)(b), F.S.

~~(n)(p)~~ Scales at the start of, or within, the production process that are necessary to weigh raw materials or ingredients, or finished goods at the time of packaging, will qualify for the exemption.

~~(o)(q)~~ Office equipment, such as telephones, copy machines, typewriters, fax machines, desktop printers, or calculators, will not qualify for the exemption.

(p) Equipment used for communications purposes, such as telephones, radios, intercom systems, video or television equipment, or public address systems, will not qualify for exemption.

(q) Security systems for surveillance or to prevent or restrict access to the fixed location or areas within the fixed location will not qualify for exemption.

(r) Furniture items for office or production personnel will not qualify for the exemption.

(s) General or task lighting fixtures will not qualify for the exemption.

(t) Installation labor charges qualify for exemption. However, other installation costs, such as equipment rental or expendable supplies, which do not become a physical part of qualifying machinery and equipment, will ~~do~~ not qualify for exemption.

(u) Motor vehicles, as defined in Section 320.01, F.S., do not qualify for exemption.

(v) Locomotives or railroad cars that do not remain at the fixed location will not qualify for exemption.

~~(9)(10)~~ Operating Leases of Machinery and Equipment.

~~(a) The lease, letting, or rental of machinery and equipment, under the terms of an operating lease, shall be treated in the same way as a sale for the purpose of this exemption.~~

~~(a)(b)~~ When a qualifying new or expanding business entity leases industrial machinery, equipment, or parts thereof, ~~in lieu of purchasing those items~~, the exemption from tax ~~shall~~ only applies ~~apply~~ to the original term of the lease agreement. Any subsequent renewal or extensions of the original term of the lease agreement are subject to tax ~~shall be fully taxable~~.

~~(e) When a qualifying expanding business entity leases industrial machinery, equipment, or parts thereof, in lieu of purchasing those items, the tax exemption limitation for the sales or use taxes paid on such industrial machinery, equipment, or parts thereof, shall apply to each calendar year of the original term of the lease agreement. For example, an expanding business (non-printing) that enters into a 60-month operating lease will be subject to the \$50,000 tax threshold for each calendar year that the lease is in effect. Any subsequent renewals or extensions of the original term of the lease agreement shall be fully taxable.~~

~~(b)(d)~~ The exercise of a purchase option in an operating lease is considered to be a purchase made after the start of production for a new business, or a purchase made outside the expansion project period for an expanding business, and is subject to tax.

~~(11)~~ Capital Leases of Machinery and Equipment.

~~(a) The lease, letting, or rental of machinery and equipment, under the terms of a capital lease, sales-type lease, or direct financing lease, shall be treated in the same way as a sale for the purpose of this exemption.~~

~~(c)(b)~~ In the case of a capital lease, sales-type lease, or direct financing lease, such leases will be considered to be sales and purchases at their inception.

Specific Authority 212.08(5)(b)4., 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(4), ~~(10)(g)~~, (14), ~~(19)~~, (21), (22), 212.05, 212.06, 212.08(5)(b), ~~(7)(xx)~~, ~~212.0805~~, 212.13(2), ~~213.255(2)~~, (3), 215.26(2) FS. History—New 5-11-92, Amended 7-1-99, 6-28-00, 6-19-01, 3-6-02, \_\_\_\_\_.

12A-1.097 Public Use Forms.

(1) The following public use forms and instructions are employed by the Department in its dealings with the public related to the administration of Chapter 212, F.S. These forms are hereby incorporated by reference in this rule.

(a) through (b) No change.

Form Number	Title	Effective Date
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(2) through (20) No change.

(21) DR-1214	Application for Temporary Tax Exemption Permit (R. 07/06 04/03)	10/03
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(22) through (23) No change.

Specific Authority 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.0515(7), 212.07(1)(b), 212.08(5)(b)4., (7), 212.11(5)(b), 212.12(1)(b)2., 212.17(6), 212.18(2), (3), 213.06(1), 376.70(6)(b), 376.75(9)(b), 403.718(3)(b), 403.7185(3)(b), 443.171(2), (7) FS. Law Implemented 92.525(1)(b), (3), 95.091, 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133, 201.17(1)-(5), 202.11(2), (3), (6), (16), (24), 202.17, 202.22(3)-(6), 202.28(1), 203.01, 212.02, 212.03, 212.0305, 212.031, 212.04, 212.05, 212.0501, 212.0515, 212.054, 212.055, 212.06, 212.0606, 212.07(1), (8), (9), 212.08, 212.084(3), 212.085, 212.09, 212.096, 212.11(1), (4), (5), 212.12(1), (2), (9), (13), 212.13, 212.14(5), 212.17, 212.18(2), (3), 213.235, 213.29, 213.37, 219.07, 288.1258, 376.70, 376.75, 403.717, 403.718, 403.7185, 443.036,

443.121(1), (3), 443.131, 443.1315, 443.1316, 443.171(2), (7) FS. History—New 4-12-84, Formerly 12A-1.97, Amended 8-10-92, 11-30-97, 7-1-99, 4-2-00, 6-28-00, 6-19-01, 10-2-01, 10-21-01, 8-1-02, 4-17-03, 5-4-03, 6-12-03, 10-1-03, 9-28-04, 6-28-05, 5-1-06, 4-5-07\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jeffery L. Soff, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4719

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Buzz McKown, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4721

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 27, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12A-1, F.A.C. (Sales and Use Tax), were noticed in the Florida Administrative Weekly on January 5, 2007 (Vol. 33, No. 1, pp. 1-11). A rule development workshop was held on January 24, 2007. In response to public comment, changes have been made to the proposed rule amendments.

**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

**PUBLIC SERVICE COMMISSION**

RULE NOS.:	RULE TITLES:
25-4.042	Extended Area Service
25-4.057	Application and Scope
25-4.058	Conditions for Approval
25-4.059	Filing Requirements
25-4.060	Community of Interest Considerations
25-4.061	Hearings
25-4.063	Subscriber Survey
25-4.064	Alternatives to Non-Optional Extended Area Service

PURPOSE AND EFFECT: The Commission proposes to repeal these rules because they are no longer necessary. Section 364.385(2), F.S., prohibits new Extended Area Service (EAS) proceedings for price-regulated local exchange companies (LECs). Repealing the EAS rules will align the F.A.C. with this statute and would have no effect on the ten LECs in Florida. Docket No. 070588-TP.

SUMMARY: The listed rules address a LECs obligation to anticipate, or respond to the Commission's directive to study and/or provide toll relief under specific circumstances. The toll

relief at issue is EAS, and collectively, these rules can be described as "EAS rules". EAS is defined in subsection 25-4.057(2), F.A.C., as "a switching and trunking arrangement which provides for a nonoptional, unlimited, two-way, flat-rate calling service between two or more exchanges, at an increment to exchange rates, rather than at toll message charges".

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The SERC shows that the proposed repeal of these rules will likely have a negligible transactional cost to the telecommunications industry in Florida, and no transactional costs to ratepayers. There will likely be no impact on transaction costs for small businesses and no negative impact on local governments or on the Florida Public Service Commission.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 350.127 FS.

LAW IMPLEMENTED: 364.03, 364.14, 364.15, 364.17, 364.385 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Office of Commission Clerk, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6770 If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Rosanne Gervasi, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6224

THE FULL TEXT OF THE PROPOSED RULES IS:

25-4.042 Extended Area Service.

Specific Authority 350.127(2) FS. Law Implemented 364.03, 364.15, 364.17, 364.385 FS. History—New 12-1-68, Amended 3-31-76, Formerly 25-4.42, Repealed\_\_\_\_\_.

25-4.057 Application and Scope.

Specific Authority 350.127(2) FS. Law Implemented 364.03, 364.14, 364.15, 364.385(2) FS. History—New 4-14-81, Formerly 25-4.57, Amended 10-5-92, Repealed\_\_\_\_\_.

25-4.058 Conditions for Approval.

Specific Authority 350.127 FS. Law Implemented 364.03, 364.14, 364.15, 364.385(2) FS. History–New 4-14-81, Formerly 25-4.58, Amended 10-5-92, Repealed.

25-4.059 Filing Requirements.

Specific Authority 350.127 FS. Law Implemented 364.03, 364.385(2) FS. History–New 4-14-81, Formerly 25-4.59, Amended 10-5-92, Repealed.

25-4.060 Community of Interest Considerations.

Specific Authority 350.127 FS. Law Implemented 364.03, 364.14, 364.385(2) FS. History–New 4-14-81, Formerly 25-4.60, Amended 10-5-92, Repealed.

25-4.061 Hearings.

Specific Authority 350.127(2) FS. Law Implemented 364.03, 364.385(2) FS. History–New 4-14-81, Formerly 25-4.61, Amended 10-5-92, Repealed.

25-4.063 Subscriber Survey.

Specific Authority 350.127 FS. Law Implemented 364.03, 364.385(2) FS. History–New 4-14-81, Formerly 25-4.63, Amended 10-5-92, Repealed.

25-4.064 Alternatives to Non-Optional Extended Area Service.

Specific Authority 350.127(2) FS. Law Implemented 364.03, 364.14, 364.385(2) FS. History–New 4-14-81, Formerly 25-4.64, Amended 10-5-92, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Michael Barrett, Regulatory Analyst IV, Division of Competitive Markets & Enforcement, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6544  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 20, 2007

**PUBLIC SERVICE COMMISSION**

<b>RULE NOS.:</b>	<b>RULE TITLES:</b>
25-4.053	Application and Scope
25-4.054	Maintenance of Records
25-4.055	Classification of Exchanges
25-4.056	Reclassification of Exchanges

PURPOSE AND EFFECT: The Commission proposes to repeal these rules because they are no longer necessary. Statutory changes have profoundly impacted the regulatory landscape for local exchange companies (LECs), and as a result, rate groups no longer serve as a vehicle for regulating local exchange rates. Docket No. 070587-TP.

SUMMARY: Rules 25-4.053-25-4.056, F.A.C., generally address rate-grouping plans for LECs. Under the rate-base, rate-of-return form of regulation, LECs often had plans and pricing structures (rates) that were “grouped” based on the number of access lines a subscriber could call. The number of access lines in the local calling area of an exchange was referred to as the “calling scope”, and these rules provided guidance for establishing the rate groups using calling scopes. These rules are related to the rules that provide guidelines and requirements for processing requests (Extended Area Service).  
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The SERC shows that the proposed repeal of these rules will likely have a negligible transactional cost to the telecommunications industry in Florida, and no transactional costs to ratepayers. There will likely be no impact on transaction costs for small businesses and no negative impact on local governments or on the Commission.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 350.127(2), 364.05 FS.

LAW IMPLEMENTED: 364.04, 364.05, 364.18, 364.025, 364.051 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Office of Commission Clerk, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6770. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rosanne Gervasi, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6224

THE FULL TEXT OF THE PROPOSED RULES IS:

25-4.053 Application and Scope.

Specific Authority 350.127(2), 364.05 FS. Law Implemented 364.05 FS. History–New 1-20-63, Revised 12-1-68, Formerly 25-4.53, Repealed.

25-4.054 Maintenance of Records.

Specific Authority 350.127(2), 364.05 FS. Law Implemented 364.04, 364.05, 364.18 FS. History–New 1-20-63, Revised 12-1-68, Formerly 25-4.54, Repealed.

25-4.055 Classification of Exchanges.

Specific Authority 350.127(2), 364.05 FS. Law Implemented 364.025, 364.05, 364.051 FS. History—New 1-20-63, Amended 7-21-65, Revised 12-1-68, Formerly 25-4.55, Repealed.

25-4.056 Reclassification of Exchanges.

Specific Authority 350.127(2) FS. Law Implemented 364.025, 364.05 FS. History—New 1-20-63, Revised 12-1-68, Amended 3-31-76, 12-10-84, Formerly 25-4.56, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Michael Barrett, Regulatory Analyst IV, Division of Competitive Markets & Enforcement, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6544

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 20, 2007

**PUBLIC SERVICE COMMISSION**

RULE NO.:	RULE TITLE:
25-6.0423	Nuclear or Integrated Gasification Combined Cycle Power Plant Cost Recovery

PURPOSE AND EFFECT: The purpose of the rule amendment is to implement Section 366.93, F.S., to promote electric utility investment in Integrated Gasification Combined Cycle (IGCC) power plants by establishing cost recovery mechanisms that allow for the recovery in rates of all costs prudently incurred in the siting, design, licensing, and construction of an IGCC power plant. Docket No. 070672-EI.

SUMMARY: The rule is amended to extend the alternative cost recovery mechanisms developed for nuclear power plants to integrated gasification combined cycle (IGCC) power plants to allow the recovery of costs incurred in siting, design, licensing, and construction and allow for recovery in rates of all such prudently incurred costs.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: Investor owned electric utilities planning to build an IGCC plant should experience no significant additional costs as a result of the rule amendment and would benefit from the cost recovery mechanisms in the rule. Implementation of alternative cost recovery mechanisms will impact the timing of cost recovery from ratepayers, subject to Commission review.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 350.127(2), 366.05(1) FS.

LAW IMPLEMENTED: 366.93 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Office of Commission Clerk, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6770. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: David E. Smith, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6199

THE FULL TEXT OF THE PROPOSED RULE IS:

25-6.0423 Nuclear or Integrated Gasification Combined Cycle Power Plant Cost Recovery.

(1) Purpose. The purpose of this rule is to establish alternative cost recovery mechanisms for the recovery of costs incurred in the siting, design, licensing, and construction of nuclear or integrated gasification combined cycle power plants in order to promote electric utility investment in nuclear or integrated gasification combined cycle power plants and allow for the recovery in rates of all such prudently incurred costs.

(2) Definitions. As used in this rule, the following definitions shall apply:

(a) “Nuclear power plant” or “plant” is an electrical power plant that utilizes nuclear materials as fuel, as defined in Sections 403.503(13) and 366.93(1)(c), F.S.

(b) “Integrated gasification combined cycle power plant” is an electrical power plant that uses synthesis gas produced by integrated gasification technology, as defined in Sections 403.503(13) and 366.93(1)(c), F.S.

(c) “Power plant” or “plant” means a nuclear power plant or an integrated gasification combined cycle power plant.

(d)(b) “Cost” includes, but is not limited to, all capital investments including rate of return, any applicable taxes and all expenses, including operation and maintenance expenses, related to or resulting from the siting, licensing, design, construction, or operation of the nuclear or integrated gasification combined cycle power plant as defined in Section 366.93(1)(a), F.S.

(e)(e) “Site selection.” A site will be deemed to be selected upon the filing of a petition for a determination of need for a nuclear or integrated gasification combined cycle power plant pursuant to Section 403.519, F.S.

(f)(d) “Site selection costs” are costs that are expended prior to the selection of a site.

(g)(e) “Pre-construction costs” are costs that are expended after a site has been selected in preparation for the construction of a nuclear or integrated gasification combined cycle power plant, incurred up to and including the date the utility completes site clearing work.

(h)(f) Site selection costs and pre-construction costs include, but are not limited to: any and all costs associated with preparing, reviewing and defending a Combined Operating License (COL) application for a nuclear power plant; costs associated with site and technology selection; costs of engineering, designing, and permitting the nuclear or integrated gasification combined cycle power plant; costs of clearing, grading, and excavation; and costs of on-site construction facilities (i.e., construction offices, warehouses, etc.).

(i)(g) “Construction costs” are costs that are expended to construct the nuclear or integrated gasification combined cycle power plant including, but not limited to, the costs of constructing ~~nuclear~~ power plant buildings and all associated permanent structures, equipment and systems.

(3) No change.

(4) Site Selection Costs. After the Commission has issued a final order granting a determination of need for a ~~nuclear~~ power plant pursuant to Section 403.519, F.S., a utility may file a petition for a separate proceeding, to recover prudently incurred site selection costs. This separate proceeding will be limited to only those issues necessary for the determination of prudence and alternative method for recovery of site selection costs of a ~~nuclear~~ power plant.

(5) Pre-Construction Costs and Carrying Costs on Construction Cost Balance. After the Commission has issued a final order granting a determination of need for a ~~nuclear~~ power plant pursuant to Section 403.519, F.S., a utility may petition the Commission for recovery of pre-construction costs and carrying costs of construction cost balance as follows:

(a) 1. through 2. No change.

(b) Carrying Costs on Construction Cost Balance. A utility is entitled to recover, through the utility’s Capacity Cost Recovery Clause, the carrying costs on the utility’s annual projected construction cost balance associated with the ~~nuclear~~ power plant. The actual carrying costs recovered through the Capacity Cost Recovery Clause shall reduce the allowance for funds used during construction (AFUDC) that would otherwise have been recorded as a cost of construction eligible for future recovery as plant in service.

1. For ~~nuclear~~ power plant need petitions submitted on or before December 31, 2010, the associated carrying costs shall be computed based on the pretax AFUDC rate in effect on June 12, 2007~~19, 2006~~;

2. For ~~nuclear~~ power plant need petitions submitted after December 31, 2010, the utility’s pretax AFUDC rate in effect at the time the petition for determination of need is filed is presumed to be appropriate unless the Commission determines otherwise in its need determination order;

3. No change.

(c) Capacity Cost Recovery Clause for Nuclear or Integrated Gasification Combined Cycle Power Plant Costs.

1. Each year, a utility shall submit, for Commission review and approval, as part of its Capacity Cost Recovery Clause filings:

a. through 2. No change.

3. The Commission shall include those costs it determines, pursuant to this subsection, to be reasonable or prudent in setting the Capacity Cost Recovery Clause factor in the annual Fuel and Purchased Power Cost Recovery proceedings. Such prior year actual costs associated with ~~nuclear~~ power plant construction subject to the annual proceeding shall not be subject to disallowance or further prudence review.

4. The final true-up for the previous year, actual/estimated true-up for the current year, and subsequent year’s projected ~~nuclear~~ power plant costs as approved by the Commission pursuant to subparagraph (5)(c)2. will be included for cost recovery purposes as a component of the following year’s capacity cost recovery factor in the Fuel and Purchased Power Cost Recovery. The utility must file all necessary revisions to the fuel and purchased power cost recovery filings no later than October 15 of the current year.

5. By May 1 of each year, along with the filings required by this paragraph, a utility shall submit for Commission review and approval a detailed analysis of the long-term feasibility of completing the power ~~nuclear~~ plant.

(6) Failure to Enter Commercial Service. Following the Commission’s issuance of a final order granting a determination of need for the ~~nuclear~~ power plant, in the event the utility elects not to complete or is precluded from completing construction of the ~~nuclear~~ power plant, the utility shall be allowed to recover all prudent site selection costs, pre-construction costs, and construction costs.

(a) through (b) No change.

(7) Commercial Service. As operating units or systems associated with the ~~nuclear~~ power plant and the ~~nuclear~~ power plant itself are placed in commercial service:

(a) No change.

(b) The utility shall calculate the increase in base rates resulting from the jurisdictional annual base revenue requirements for the ~~nuclear~~ power plant in conjunction with the Capacity Cost Recovery Clause projection filing for the year the ~~nuclear~~ power plant is projected to achieve commercial operation. The increase in base rates will be based on the annualized base revenue requirements for the ~~nuclear~~

power plant for the first 12 months of operations consistent with the cost projections filed in conjunction with the Capacity Cost Recovery Clause projection filing.

(c) At such time as the ~~nuclear~~ power plant is included in base rates, recovery through the Capacity Cost Recovery Clause will cease, except for the difference between actual and projected construction costs as provided in subparagraph (5)(c)4. above.

(d) No change.

(e) The jurisdictional net book value of any existing generating plant that is retired as a result of operation of the ~~nuclear~~ power plant shall be recovered through an increase in base rate charges over a period not to exceed 5 years. At the end of the recovery period, base rates shall be reduced by an amount equal to the increase associated with the recovery of the retired generating plant.

(8)(a) through (e) No change.

(f) Annual Reports Required by Rule 25-6.135, F.A.C. On an annual basis following issuance of the final order granting a determination of need and until commercial operation of the ~~nuclear~~ power plant, a utility shall include the budgeted and actual costs as compared to the estimated in-service costs of the ~~nuclear~~ power plant as provided in the petition for need determination in its annual report filed pursuant to Rule 25-6.135, F.A.C. The estimates provided in the petition for need determination are non-binding estimates. Some costs may be higher than estimated and other costs may be lower. A utility shall provide such revised estimated in-service costs as may be necessary in its annual report.

Specific Authority 350.127(2), 366.05(1) FS. Law Implemented 366.93 FS. History—New 4-8-07, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kathy Lewis, Division of Economic Regulation, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850. (850)413-6594

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 20, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 31, 2007

**PUBLIC SERVICE COMMISSION**

RULE NO.: 25-22.081  
RULE TITLE: Contents of Petition

PURPOSE AND EFFECT: The purpose of the rule is to implement 2007 amendments to Section 403.519, F.S., dealing with the contents of an electric utility's petition for determination of need and extending the statute's applicability to integrated gasification combined cycle (IGCC) power plants. Docket No. 070672-EI.

SUMMARY: The rule is amended to include IGCC power plants, and to specify that a petition for determination of need must include information to allow the Commission to consider the electric utility's use of conservation measures and renewable energy sources and technologies in the determining need for new generation capacity.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The additional costs to electric utilities to comply with the rule should be minimal.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 350.127(2), 366.05(1) FS.

LAW IMPLEMENTED: 403.519 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN FAW.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Office of Commission Clerk, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6770. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: David E. Smith, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6199

THE FULL TEXT OF THE PROPOSED RULE IS:

25-22.081 Contents of Petition.

(1) Petition for Fossil, Integrated Gasification Combined Cycle, or Nuclear Fuel Electric Plants. Petitions submitted to commence a proceeding to determine the need for a proposed fossil, integrated gasification combined cycle, or nuclear fuel electrical power plant or responses to the Commission's order commencing such a proceeding shall comply with the other requirements of Chapter 25-22, F.A.C., as to form and style except that a utility may, at its option, submit its petition in the same format and style as its application for site certification pursuant to Sections 403.501 through 403.517, F.S., so long as the informational requirements of this rule and Chapter 25-22, F.A.C., are satisfied. ~~The petition, I~~to allow the Commission to take into account the need for electric system reliability and integrity, the need for adequate reasonable cost electricity, the



need for fuel diversity and supply reliability, ~~and~~ the need to determine whether the proposed plant is the most cost effective alternative available, and the need to determine whether renewable energy sources and technologies, as well as conservation measures, are utilized to the extent reasonably available, the petition shall contain the following information:

(a) through (b) No change.

(c) A statement of the specific conditions, contingencies or other factors which indicate a need for the proposed electrical power plant including the general time within which the generating units will be needed. Documentation shall include historical and forecasted summer and winter peaks, number of customers, net energy for load, and load factors with a discussion of the more critical operating conditions. Load forecasts shall identify the model or models on which they were based and shall include sufficient detail to permit analysis of the model or models. If a determination is sought on some basis in addition to or in lieu of capacity needs, such as fuel diversity, then detailed analysis and supporting documentation of the projected costs and benefits is required. Where a determination is sought for a nuclear or integrated gasification combined cycle power plant, the nonbinding estimate provided for in paragraph (2)(b) below shall be considered to be sufficient for purposes of this paragraph.

(d) A summary discussion of the major available generating alternatives which were examined and evaluated in arriving at the decision to pursue the proposed generating unit. The discussion shall include a general description of the generating unit alternatives, including purchases where appropriate; and an evaluation of each alternative in terms of economics, reliability, long-term flexibility and usefulness and any other relevant factors such as fuel diversity and fuel supply reliability. These major generating technologies generally available and potentially appropriate for the timing of the proposed plant and other conditions specific to it shall be discussed. In addition, each investor-owned utility shall include a detailed description of the selection process used and a detailed description of the generating unit alternatives proposed by each finalist, if any, selected to participate in subsequent contract negotiations pursuant to Rule 25-22.082, F.A.C. No provision of Rule 25-22.082, F.A.C., shall be applicable to a nuclear or integrated gasification combined cycle power plant sited after June 19, 2006.

(e) through (g) No change.

(2) In addition to complying with paragraphs (1)(a) through (g) above, a nuclear or integrated gasification combined cycle power plant petition shall contain the following information:

(a) The description required by Section 403.519(4)(a)2., F.S., including a discussion about how the proposed nuclear or integrated gasification combined cycle power plant will enhance the electric supply reliability by reducing the exposure to fossil fuel supply disruptions;

(b) A description of and a nonbinding estimate of the cost of the proposed nuclear or integrated gasification combined cycle power plant, including associated transmission facilities;

(c) The annualized base revenue requirement for the first 12 months of operation of the proposed nuclear or integrated gasification combined cycle power plant, based on the nonbinding estimate of the cost provided pursuant to paragraph (2)(b) above; and

(d) No change.

Specific Authority 350.127(2), 366.05(1) FS. Law Implemented 403.519 FS. History--New 12-22-81, Formerly 25-2.133, 25-22.81, Amended 1-10-94, 2-20-07,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kathy Lewis, Division of Economic Regulation, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6594

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 20, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 31, 2007

**DEPARTMENT OF CORRECTIONS**

RULE NO.: 33-503.001  
RULE TITLE: Chaplaincy Services

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to permit Chaplains to have written contact with inmates where the inmate or the Chaplain has transferred to another FDOC institution.

SUMMARY: The proposed rule provides a process whereby a Chaplain may maintain written contact with an inmate after transfer of the inmate or Chaplain.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 944.09, 944.11, 944.803 FS.

LAW IMPLEMENTED: 20.315, 90.505, 944.09, 944.11 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-503.001 Chaplaincy Services.

(1) through (5) No change.

(6) The Chaplain shall be authorized to maintain written communication with inmates where the inmate and the Chaplain have been at the same institution, at the same time, and either the inmate or the Chaplain has transferred to another Florida Department of Corrections institution under the following conditions:

(a) The written communication must fall within the scope of clergy professional standards (i.e. provides spiritual direction, advice, counsel, or encouragement).

(b) Consistent with the effective management and order of the institution, the Chaplain maintaining written communication with an inmate at another Florida Department of Corrections institution must inform the Chaplain at the inmate's current institutional location.

(6) through (12) renumbered (7) through (13) No change.

Specific Authority 944.09, 944.11, 944.803 FS. Law Implemented 20.315, 90.505, 944.09, 944.11 FS. History--New 1-6-82, Formerly 33-3.14, 33-3.014, Amended 10-18-01, 1-9-03, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: George Sapp, Assistant Secretary of Institutions

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Laura Bedard, Ph.D., Deputy Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 22, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 9, 2007

**DEPARTMENT OF CORRECTIONS**

RULE NO.: 33-602.201                      RULE TITLE: Inmate Property

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify the handling of excess photographs received in routine mail.

SUMMARY: The rule is amended to specifically allow inmates to send out photographs, at their own expense, when additional photos are received in routine mail than the inmate is allowed by property limits.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jamie Leigh Jordan, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.201 Inmate Property.

(1) through (4) No change.

(5) Unauthorized Property. (Also see Control of Contraband, Rule 33-602.203, F.A.C.).

(a) Property which is considered contraband pursuant to Rule 33-602.203, F.A.C., shall be handled as provided for in Rule 33-602.203, F.A.C.

1. No change.

2. If an inmate receives photographs in the mail which, added to the number already in his possession, place him over the maximum allowed, he shall be allowed to send the excess photographs out at his own expense. It is the inmate's responsibility to make arrangements with staff to send out the extra photographs as soon as they are received. Excess photographs found in an inmate's property will be considered contraband.

3.2. An inmate who is in possession of the maximum number of articles allowed by this rule and who wishes to replace a worn item must contact the property officer to arrange to discard or send the worn item out at his own expense before purchasing a replacement item.

(b) No change.

(6) through (17) No change.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History--New 6-4-81, Formerly 33-3.025, Amended 11-3-87, 11-13-95, 5-20-96, 1-8-97, 6-1-97, 7-6-97, 10-15-97, 2-15-98, 3-16-98, 8-4-98, 12-7-98, Formerly 33-3.0025, Amended 11-21-00, 9-12-01, 5-16-02, 7-8-03, 8-18-04, 1-25-05, 10-23-06, \_\_\_\_\_.

APPENDIX ONE  
PROPERTY LIST

No change.

NAME OF PERSON ORIGINATING PROPOSED RULE: George Sapp, Assistant Secretary of Institutions

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Laura E. Bedard, Ph.D., Deputy Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 28, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 2, 2007

**DEPARTMENT OF CORRECTIONS**

RULE NO.: 33-602.205  
 RULE TITLE: Inmate Telephone Use

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify the requirements, process, and exemptions for inmates wishing to receive or make phone calls to foreign consulates.

SUMMARY: The rule is amended to allow inmate phone calls to foreign consulates to be private and unmonitored; exempted from the fifteen minute maximum restriction and limited to the amount of time reasonably necessary to accomplish the purpose of the call; and provide the requirements for verifying that a person is a foreign consulate for the purposes of inmate telephone use.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jamie Leigh Jordan, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.205 Inmate Telephone Use.

(1) This rule sets forth the minimum telephone privileges that shall be granted to inmates housed in institutions or facilities other than community correctional centers, or inmates housed on death row. All inmate calls, with the exception of those calls placed to attorneys pursuant to paragraph (3)(a), and to foreign consulates pursuant to paragraph (4)(a) shall be subject to monitoring and recording. Due to the high level of security needs on death row, the only telephone privileges available to death row inmates are those set forth in paragraph (3)(a), private calls to attorneys; paragraph 4)(a), private calls to foreign consulates; and subsection (5)(4), calls made in the event of family crisis.

(2) Inmate telephone procedures will be conducted as follows:

(a) through (d) No change.

(e) Except for calls to attorneys as provided in paragraph (3)(a), calls to foreign consulates as provided in paragraph (4)(a), or calls during family crisis as provided in subsection (5)(4), calls shall be limited to 15 minutes. Calls to attorneys as

provided in paragraph (3)(a), calls to foreign consulates provided in paragraph (4)(a), and calls in time of family crisis as provided in subsection (5)(4) shall be limited to the amount of time reasonably necessary to accomplish the purpose of the call.

(f) through (l) No change.

(3) No change.

(4) Calls to Foreign Consulates.

(a) A foreign national inmate shall be allowed to make private telephone calls to his or her respective consulate upon presentation to the warden or his designee of evidence that the call is necessary and that the inmate is a native of the country represented by the consulate as verified by Immigration and Custody Enforcement. Such evidence shall be a letter from the consulate (transmission by FAX is acceptable) requesting the return call. A consulate shall also be permitted to make prior arrangements by letter or FAX with the warden or warden's designee to have the inmate receive a private telephone call from the consulate on an unmonitored telephone.

(b) Except as authorized by warrant or court order, telephone calls to consulates made pursuant to this section shall not be monitored or electronically recorded. These calls will be placed on telephones designated for this purpose and shall be collect calls; there shall be at least one telephone at each institution that is not connected to the monitoring system for these calls.

(5)(4) An inmate may be authorized to make telephone calls in case of family crisis, including death or serious illness in the immediate family or serious marital or other family problems. All such calls must be approved by the chaplain or other official designated by the warden who shall, if possible, verify the existence of the family crisis.

(5) through (15) renumbered (6) through (16) No change.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History—New 11-19-81, Formerly 33-3.125, Amended 11-21-86, 1-6-92, 3-24-97, 7-22-97, 12-21-98, Formerly 33-3.0125, Amended 2-7-00, 6-18-02, 2-4-03, 12-30-03, 11-25-04, 1-7-07, 9-24-07, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: George Sapp, Assistant Secretary of Institutions

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Laura E. Bedard, Ph.D., Deputy Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 22, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 2, 2007

**DEPARTMENT OF CORRECTIONS**

RULE NO.: 33-602.210  
 RULE TITLE: Use of Force

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to amend Form DC6-210, Incident Report, which is incorporated by reference, to include a space for employee identification number.

SUMMARY: The form is amended to include employee identification in order to more readily identify the employee reporting.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 776.07, 944.09, 944.35 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jamie Leigh Jordan, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.210 Use of Force.

(1) through (21) No change.

(22) The following forms are hereby incorporated by reference. Copies of these forms are available from the Forms Control Administrator, Research, Planning and Support Services, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

(a) through (f) No change.

(g) DC6-210, Incident Report, effective        8-1-05.

(h) through (n) No change.

Specific Authority 944.09, FS. Law Implemented 776.07, 944.09, 944.35 FS. History—New 4-8-81, Amended 10-10-83, 9-28-85, Formerly 33-3.066, Amended 3-26-86, 11-21-86, 4-21-93, 7-26-93, 11-2-94, 2-12-97, 11-8-98, Formerly 33-3.0066, Amended 10-6-99, 2-7-00, 7-25-02, 8-25-03, 2-25-04, 11-7-04, 4-17-05, 8-1-05, 3-2-06, 9-18-06, 10-4-07, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: George Sapp, Assistant Secretary of Institutions

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Laura E. Bedard, Ph.D., Deputy Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 12, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 2, 2007

**LAND AND WATER ADJUDICATORY COMMISSION**

**Poinciana Community Development District**

RULE NO.: 42AA-1.002  
 RULE TITLE: Boundary

PURPOSE AND EFFECT: The Petition, as supplemented, proposes to modify the land area presently serviced by the District by amending its boundary to add approximately 212.65 acres. The District currently covers approximately 3,028 acres of land located entirely within Polk County, Florida. There are no lands within the expansion parcel that are to be excluded from the District. Petitioner has written consent to amend the boundary of the District from the owners of one hundred percent of the real property comprising the expansion parcel. Pursuant to Section 190.046(1)(e), F.S., the filing of the Petition, as supplemented, for expansion by the District Board of Supervisors constitutes consent of the landowners. The proposed 212.65 acre expansion area will include single family residential units that will be added to the overall development schedule.

SUMMARY: The Petition, as supplemented, proposes to modify the land area presently serviced by the District by amending its boundary to add approximately 212.65 acres. The District currently covers approximately 3,028 acres of land located entirely within Polk County, Florida. There are no lands within the expansion parcel that are to be excluded from the District. Petitioner has written consent to amend the boundary of the District from the owners of one hundred percent of the real property comprising the expansion parcel. Pursuant to Section 190.046(1)(e), F.S., the filing of the Petition, as supplemented, for expansion by the District Board of Supervisors constitutes consent of the landowners. The proposed 212.65 acre expansion area will include single family residential units that will be added to the overall development schedule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: In association with the Petition, as supplemented, the Petitioner has caused a Statement of Estimated Regulatory Costs (“SERC”) to be prepared in compliance with section 120.541, F.S. By way of summary, the SERC estimates the principal individuals and entities likely to be required to comply with the amended rule are the single family residential households that locate within the proposed expansion area. The SERC estimates that rule amendment implementation and enforcement costs to the Commission and state agencies will be modest. The costs to Polk and Osceola Counties are modest and will be offset by the payment of requisite filing and annual fees. The SERC estimates there will be no effect on state and local revenues from the proposed amendment of the rule. The SERC indicates the District may levy non-ad valorem special assessments on properties within its boundaries to finance infrastructure that the District funds and to defray the costs of operating and maintaining the infrastructure and associated community facilities. Prospective future landowners would be required to pay off such

indebtedness over time in the form of non-ad valorem special assessments or other rates, fees or charges. The District may also impose an annual levy for the operations and maintenance of the District. The SERC further provides the decision to locate within the District is completely voluntary. The SERC concludes that the expansion of the District's boundary will have no impact on small businesses. As to impact on small counties, neither Polk nor Osceola Counties are "small" counties as defined by Section 120.52, F.S. The SERC analysis is based on a straightforward application of economic theory. Input was received from the developer's engineer and other professionals associated with the developer.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 190.005, 190.046 FS.

LAW IMPLEMENTED: 190.004, 190.005, 190.046 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Thursday, January 10, 2008, 10:00 a.m.

PLACE: The Capitol, Room 2103, Tallahassee, Florida 32399-0001

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least two days before the workshop/meeting by contacting: Barbara Leighty, Florida Land and Water Adjudicatory Commission, Office of the Governor, The Capitol, Room 1801, Tallahassee, Florida 32399-0001. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Barbara Leighty, Florida Land and Water Adjudicatory Commission, Office of the Governor, The Capitol, Room 1801, Tallahassee, Florida 32399-0001

THE FULL TEXT OF THE PROPOSED RULE IS:

42AA-1.002 Boundary.

The boundaries of the district are as follows:

PARCEL A

PERIMETER DESCRIPTION

LEGAL DESCRIPTION

A PORTION OF SECTIONS 13, 14, 15, 22, 23, 24, 25, 26, 35 AND 36, IN TOWNSHIP 27 SOUTH, RANGE 28 EAST, POLK COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT A POINT LOCATED AT THE NORTHWEST CORNER OF POINCIANA NEIGHBORHOOD 1 EAST, VILLAGE 4, IN TOWNSHIP 27 SOUTH, RANGE 28 EAST, AS RECORDED IN PLAT BOOK 56, PAGE 25, OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA, THENCE RUN S04°40'45"E FOR A DISTANCE OF 301.04 FEET TO THE POINT OF BEGINNING. SAID POINT OF BEGINNING BEING LOCATED ON THE SOUTHERLY SIDELINE OF CYPRESS PARKWAY AND THE EASTERLY SIDELINE OF RHODODENDRON AVENUE; THENCE RUN S89°54'30"E FOR A DISTANCE OF 2930.85 FEET; THENCE RUN S89°46'58"E FOR A DISTANCE OF 5321.93 FEET; THENCE RUN S89°58'45"E FOR A DISTANCE OF 886.32 FEET; THENCE RUN EASTERLY ALONG THE ARC OF A CURVE, CONCAVE TO THE NORTH HAVING A RADIUS OF 2059.86 FEET, THROUGH A CENTRAL ANGLE OF 19°04'49" A DISTANCE OF 685.96 FEET; THENCE RUN EASTERLY ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTH HAVING A RADIUS OF 25.00 FEET, THROUGH A CENTRAL ANGLE OF 93°12'37" A DISTANCE OF 40.67 FEET; THENCE RUN SOUTHERLY ALONG THE ARC OF A CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 3139.52 FEET, THROUGH A CENTRAL ANGLE OF 20°42'36" A DISTANCE OF 1134.80 FEET; THENCE RUN SOUTHERLY ALONG THE ARC OF A CURVE, CONCAVE TO THE WEST HAVING A RADIUS OF 25.00 FEET, THROUGH A CENTRAL ANGLE OF 90°58'35" A DISTANCE OF 39.70 FEET; THENCE RUN N84°09'21"W FOR A DISTANCE OF 396.38 FEET; THENCE RUN WESTERLY ALONG THE ARC OF A CURVE, CONCAVE TO THE SOUTH HAVING A RADIUS OF 650.53 FEET, THROUGH A CENTRAL ANGLE OF 23°40'59" A DISTANCE OF 268.90 FEET; THENCE RUN WESTERLY ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTH HAVING A RADIUS OF 540.00 FEET, THROUGH A CENTRAL ANGLE OF 67°17'36" A DISTANCE OF 634.23 FEET; THENCE RUN S04°52'04"W FOR A DISTANCE OF 1734.81 FEET; THENCE RUN SOUTHERLY ALONG THE ARC OF A CURVE, CONCAVE TO THE WEST HAVING A RADIUS OF 560.00 FEET, THROUGH A CENTRAL ANGLE OF 28°42'35" A DISTANCE OF 280.60 FEET; THENCE RUN S33°34'39"W FOR A DISTANCE OF 472.17 FEET; THENCE RUN S56°25'21"E FOR A DISTANCE OF 1140.00 FEET; THENCE RUN EASTERLY ALONG THE ARC OF A CURVE, CONCAVE TO THE SOUTH HAVING A RADIUS OF 25.00 FEET, THROUGH A CENTRAL ANGLE OF 90°00'00" A DISTANCE OF 39.27 FEET; THENCE RUN S33°34'39"W FOR A DISTANCE OF 258.00 FEET; THENCE RUN SOUTHERLY ALONG THE ARC OF A CURVE, CONCAVE TO THE EAST HAVING A RADIUS OF 1825.00

FEET, THROUGH A CENTRAL ANGLE OF 35°13'56" A DISTANCE OF 1122.23 FEET; THENCE RUN S01°39'17"E FOR A DISTANCE OF 1818.87 FEET; THENCE RUN SOUTHERLY ALONG THE ARC OF A CURVE, CONCAVE TO THE WEST HAVING A RADIUS OF 1125.00 FEET; THROUGH A CENTRAL ANGLE OF 37°45'34" A DISTANCE OF 741.41 FEET; THENCE RUN S36°06'17"W FOR A DISTANCE OF 469.92 FEET; THENCE RUN SOUTHERLY ALONG THE ARC OF A CURVE, CONCAVE TO THE EAST HAVING A RADIUS OF 1525.00 FEET, THROUGH A CENTRAL ANGLE OF 46°06'17" A DISTANCE OF 1227.14 FEET; THENCE RUN S10°00'00"E FOR A DISTANCE OF 403.95 FEET; THENCE RUN SOUTHERLY ALONG THE ARC OF A CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 3350.00 FEET, THROUGH A CENTRAL ANGLE OF 10°00'00" A DISTANCE OF 584.69 FEET; THENCE RUN S00°00'00"E FOR A DISTANCE OF 1200.84 FEET; THENCE RUN SOUTHERLY ALONG THE ARC OF A CURVE, CONCAVE TO THE EAST HAVING A RADIUS OF 2075.00 FEET, THROUGH A CENTRAL ANGLE OF 20°19'55" A DISTANCE OF 736.33 FEET; THENCE RUN S20°19'55"E FOR A DISTANCE OF 443.56 FEET; THENCE RUN SOUTHERLY ALONG THE ARC OF A CURVE, CONCAVE TO THE WEST HAVING A RADIUS OF 1925.00 FEET, THROUGH A CENTRAL ANGLE OF 26°36'00" A DISTANCE OF 893.70 FEET; THENCE RUN S06°16'05"W FOR A DISTANCE OF 520.38 FEET; THENCE RUN SOUTHERLY ALONG THE ARC OF A CURVE, CONCAVE TO THE WEST HAVING A RADIUS OF 6225.00 FEET, THROUGH A CENTRAL ANGLE OF 09°04'15" A DISTANCE OF 985.52 FEET; THENCE RUN S15°20'20"W FOR A DISTANCE OF 1617.02 FEET; THENCE RUN N74°39'40"W FOR A DISTANCE OF 269.91 FEET; THENCE RUN WESTERLY ALONG THE ARC OF A CURVE, CONCAVE TO THE SOUTH HAVING A RADIUS OF 1575.00 FEET, THROUGH A CENTRAL ANGLE OF 15°20'20" A DISTANCE OF 421.65 FEET; THENCE RUN N90°00'00"W FOR A DISTANCE OF 1819.67 FEET; THENCE RUN WESTERLY ALONG THE ARC OF A CURVE, CONCAVE TO THE NORTH HAVING A RADIUS OF 2950.00 FEET, THROUGH A CENTRAL ANGLE OF 52°36'25" A DISTANCE OF 2708.59 FEET; THENCE RUN N37°23'35"W FOR A DISTANCE OF 502.05 FEET; THENCE RUN NORTHERLY ALONG THE ARC OF A CURVE, CONCAVE TO THE WEST HAVING A RADIUS OF 2300.00 FEET, THROUGH A CENTRAL ANGLE OF 11°48'13" A DISTANCE OF 473.83 FEET; THENCE RUN N49°11'48"W FOR A DISTANCE OF 833.92 FEET; THENCE RUN WESTERLY ALONG THE ARC OF A CURVE, CONCAVE TO THE NORTH HAVING A RADIUS OF 1875.00 FEET, THROUGH A CENTRAL ANGLE OF 30°30'00" A DISTANCE OF 998.11 FEET; THENCE RUN N18°41'48"W FOR A DISTANCE OF 940.00 FEET;

THENCE RUN NORTHERLY ALONG THE ARC OF A CURVE, CONCAVE TO THE WEST HAVING A RADIUS OF 1925.00 FEET, THROUGH A CENTRAL ANGLE OF 22°30'00" A DISTANCE OF 755.95 FEET; THENCE RUN N41°11'48"W FOR A DISTANCE OF 1295.00 FEET; THENCE RUN N48°48'12"E FOR A DISTANCE OF 475.00 FEET; THENCE RUN EASTERLY ALONG THE ARC OF A CURVE, CONCAVE TO THE NORTH HAVING A RADIUS OF 1325.00 FEET, THROUGH A CENTRAL ANGLE OF 40°00'00" A DISTANCE OF 925.03 FEET; THENCE RUN N08°48'12"E FOR A DISTANCE OF 3153.37 FEET; THENCE RUN NORTHERLY ALONG THE ARC OF A CURVE, CONCAVE TO THE EAST HAVING A RADIUS OF 1825.00 FEET, THROUGH A CENTRAL ANGLE OF 24°02'18" A DISTANCE OF 765.68 FEET; THENCE RUN N32°50'30"E FOR A DISTANCE OF 855.99 FEET; THENCE RUN NORTHERLY ALONG THE ARC OF A CURVE, CONCAVE TO THE WEST HAVING A RADIUS OF 1450.00 FEET, THROUGH A CENTRAL ANGLE OF 65°00'00" A DISTANCE OF 1644.97 FEET; THENCE RUN N32°09'30"W FOR A DISTANCE OF 749.99 FEET; THENCE RUN NORTHERLY ALONG THE ARC OF A CURVE, CONCAVE TO THE EAST HAVING A RADIUS OF 1300.00 FEET, THROUGH A CENTRAL ANGLE OF 16°30'00" A DISTANCE OF 374.37 FEET; THENCE RUN N15°39'30"W FOR A DISTANCE OF 740.00 FEET; THENCE RUN NORTHERLY ALONG THE ARC OF A CURVE, CONCAVE TO THE WEST HAVING A RADIUS OF 1975.00 FEET, THROUGH A CENTRAL ANGLE OF 24°00'00" A DISTANCE OF 827.29 FEET; THENCE RUN N39°39'30"W FOR A DISTANCE OF 765.00 FEET; THENCE RUN NORTHERLY ALONG THE ARC OF A CURVE, CONCAVE TO THE EAST HAVING A RADIUS OF 1225.00 FEET, THROUGH A CENTRAL ANGLE OF 39°45'00" A DISTANCE OF 849.87 FEET; THENCE RUN N00°05'30"E FOR A DISTANCE OF 229.96 FEET; THENCE RUN NORTHERLY ALONG THE ARC OF A CURVE, CONCAVE TO THE EAST HAVING A RADIUS OF 25.00 FEET, THROUGH A CENTRAL ANGLE OF 90°00'00" A DISTANCE OF 39.27 FEET TO THE POINT OF BEGINNING. CONTAINING 2875.650 ACRES MORE OR LESS.

ALSO INCLUDING:

PARCEL C

PERIMETER DESCRIPTION

LEGAL DESCRIPTION

A PORTION OF SECTIONS 13, 24, AND 25, IN TOWNSHIP 27 SOUTH, RANGE 28 EAST, POLK COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHWEST CORNER OF POINCIANA NEIGHBORHOOD 3, VILLAGE 3, IN TOWNSHIP 27 SOUTH, RANGE 28 EAST, AS RECORDED IN PLAT BOOK 52, PAGE 19, OF THE PUBLIC RECORDS OF POLK

COUNTY, FLORIDA. SAID POINT BEING ON THE SOUTHERLY SIDELINE OF WALNUT STREET AND THE EASTERLY SIDELINE OF MARIGOLD AVENUE. THENCE RUN FROM A TANGENT BEARING OF S56°25'21"E RUN EASTERLY ALONG THE ARC OF A CURVE, CONCAVE TO THE NORTH HAVING A RADIUS OF 2392.77 FEET, THROUGH A CENTRAL ANGLE OF 34°37'51" A DISTANCE OF 1446.24 FEET; THENCE RUN N88°56'48"E FOR A DISTANCE OF 97.67 FEET; THENCE RUN S04°03'28"W FOR A DISTANCE OF 330.04 FEET; THENCE RUN S54°03'28"W FOR A DISTANCE OF 153.75 FEET; THENCE RUN S61°47'51"W FOR A DISTANCE OF 211.04 FEET; THENCE RUN S08°01'02"E FOR A DISTANCE OF 40.95 FEET; THENCE RUN S47°33'48"E FOR A DISTANCE OF 170.24 FEET; THENCE RUN S05°05'14"W FOR A DISTANCE OF 170.69 FEET; THENCE RUN S08°32'10"W FOR A DISTANCE OF 224.90 FEET; THENCE RUN S01°40'55"W FOR A DISTANCE OF 227.80 FEET; THENCE RUN S05°05'14"W FOR A DISTANCE OF 1230.28 FEET; THENCE RUN S18°34'59"W FOR A DISTANCE OF 582.94 FEET; THENCE RUN S37°56'48"W FOR A DISTANCE OF 336.99 FEET; THENCE RUN S00°06'26"W FOR A DISTANCE OF 170.14 FEET; THENCE RUN S38°18'16"W FOR A DISTANCE OF 323.43 FEET; THENCE RUN S49°40'20"W FOR A DISTANCE OF 257.88 FEET; THENCE RUN S56°44'06"W FOR A DISTANCE OF 156.10 FEET; THENCE RUN S7°17'59"W FOR A DISTANCE OF 146.98 FEET; THENCE RUN S46°42'14"W FOR A DISTANCE OF 268.65 FEET; THENCE RUN S61°53'00"W FOR A DISTANCE OF 158.15 FEET; THENCE RUN N78°20'54"W FOR A DISTANCE OF 169.83 FEET; THENCE RUN N53°53'43"W FOR A DISTANCE OF 180.00 FEET; THENCE RUN S36°06'17"W FOR A DISTANCE OF 70.00 FEET; THENCE RUN S52°45'05"W FOR A DISTANCE OF 157.04 FEET; THENCE RUN N81°15'40"W FOR A DISTANCE OF 148.46 FEET; THENCE RUN N77°03'48"W FOR A DISTANCE OF 59.12 FEET; THENCE RUN S12°56'12"W FOR A DISTANCE OF 80.00 FEET; THENCE RUN N77°03'48"W FOR A DISTANCE OF 166.57 FEET; THENCE RUN FROM A TANGENT BEARING OF N10°00'00"W RUN NORTHERLY ALONG THE ARC OF A CURVE, CONCAVE TO THE EAST HAVING A RADIUS OF 1375.00 FEET, THROUGH A CENTRAL ANGLE OF 24°50'04" A DISTANCE OF 595.98 FEET; THENCE RUN N36°06'17"E FOR A DISTANCE OF 469.92 FEET; THENCE RUN NORTHERLY ALONG THE ARC OF A CURVE, CONCAVE TO THE WEST HAVING A RADIUS OF 1275.00 FEET, THROUGH A CENTRAL ANGLE OF 37°45'33" A DISTANCE OF 840.25 FEET; THENCE RUN N01°39'17"W FOR A DISTANCE OF 1818.87 FEET; THENCE RUN NORTHERLY ALONG THE ARC OF A CURVE CONCAVE TO THE EAST HAVING A RADIUS OF 1675.00 FEET, THROUGH A CENTRAL ANGLE OF

35°13'55" A DISTANCE OF 1029.98 FEET; THENCE RUN N33°34'39"E FOR A DISTANCE OF 258.09 FEET; THENCE RUN NORTHERLY ALONG THE ARC OF A CURVE, CONCAVE TO THE EAST HAVING A RADIUS OF 25.00 FEET, THROUGH A CENTRAL ANGLE OF 90°00'00" A DISTANCE OF 39.27 FEET TO THE POINT OF BEGINNING. CONTAINING 154.728 ACRES MORE OR LESS.

LESS AND EXCEPT:

LOT 1, BLOCK 302, "POINCIANA NEIGHBORHOOD 6 NORTH VILLAGE 3", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 52, PAGES 42 THROUGH 49 OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF SECTION 35, TOWNSHIP 27 SOUTH, RANGE 28 EAST, POLK COUNTY, FLORIDA, RUN NORTH 89°56'36" EAST ALONG THE NORTH LINE OF SAID SECTION 35 A DISTANCE OF 644.07 FEET; THENCE DEPARTING SAID NORTH LINE, SOUTH 00°03'25" EAST A DISTANCE OF 102.49 FEET TO THE NORTHERLYMOST CORNER OF SAID LOT 1 AND THE POINT OF BEGINNING; THENCE SOUTHEASTERLY ALONG THE EASTERLY LINE OF SAID LOT 1, BEING A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 2519.00 FEET, A CENTRAL ANGLE OF 01°55'54" AND A CHORD OF 84.92 FEET THAT BEARS SOUTH 41°32'37" EAST; THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 84.96 FEET; THENCE SOUTH 46°34'51" WEST, A DISTANCE OF 74.50 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE NORTHERLY, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 91°26'07" AND A CHORD OF 35.80 FEET THAT BEARS NORTH 8°42'05" WEST, SAID POINT BEING HEREAFTER REFERRED TO AS POINT "A"; THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 39.90 FEET TO A POINT OF COMPOUND CURVATURE OF A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 2619.00 FEET, A CENTRAL ANGLE OF 01°24'21" AND A CHORD OF 64.25 FEET THAT BEARS NORTH 41°16'50" WEST, THENCE ALONG THE ARC OF SAID CURVE A DISTANCE OF 64.28 FEET; THENCE NORTH 49°25'20" EAST A DISTANCE OF 100.00 FEET TO THE POINT OF BEGINNING. (CONTAINING 0.20 ACRES, MORE OR LESS.)

ALSO LESS AND EXCEPT:

AN APPROXIMATE 2 1/2 ACRE PARCEL LOCATED IN TRACT C, NEIGHBORHOOD 1-E VILLAGE 4, AS RECORDED IN PLAT BOOK 56, PAGE 31, BEING IN SECTION 14, TOWNSHIP 27 SOUTH, RANGE 28 EAST, POLK COUNTY, FLORIDA.

TOGETHER WITH:

Description: Solivita – Phase VIA(Recorded in Plat Book 131, Pages 30-35 of the Public Records of Polk County, Florida).

All of Blocks 14, 15, 16 and 17; portions of Blocks 18, 19, 20, 21, 22, 23, 24, 25 and 26; all of Tracts K-1, K-2, K-3, K-4, K-6, K-7, K-8 and K-9, a portion of Tract K-5; all of the public right-of-way for Rough Lane; portions of the public right-of-ways for, Score Drive, Long Court and Spike Drive; a portion of Greenway 1 as shown on Page 34; a portion of Greenways 1, 2 and 3 as shown on Page 35; a portion of Greenways 1 and 2 as shown on Page 36; a portion of Greenways 2 and 3 as shown on Page 37 and a portion of Greenway 1 as shown on Page 38, the above as shown on Replat of a Portion of Poinciana Neighborhood 1, Village 3, as recorded in Plat Book 58, Pages 31 through 38, Public Records of Polk County, Florida, (Please note that the portions of the Replat of a Portion of Poinciana Neighborhood 1, Village 3 plat described above were vacated by the Polk County Board of County Commissioners at their July 13, 2005 meeting) being more particularly described as follows:

Commence at the Northwest corner of Section 13, Township 27 South, Range 28 East, Polk County, Florida; thence S 89°57'44" E along the North line of said Section 13 a distance of 2472.78 feet to the Point of Beginning, said point being the Northeast corner of Golf Villas II at Poinciana, as recorded in Plat Book 72, Pages 16 through 18, Public Records of Polk County, Florida; thence continue S 89°57'44" E along said North line a distance of 2369.24 feet to the most Northerly corner of Lot 8, Block 59, of said Replat of a Portion of Poinciana Neighborhood 1, Village 3; thence along the Westerly line of said Block 59 the following courses and distances : S 14°41'52" W a distance of 355.07 feet; thence S 19°01'09" E a distance of 256.27 feet to the Most Southerly corner of Lot 12 of said Block 59, said point being on a Northwesterly projection of the Southerly line of Block 55 as shown on said Plat; thence S 56°39'52" E along the Southerly line of said Block 55 a distance of 209.11 feet to the Southeast corner of Lot 5 of said Block 55, said point being on the Westerly line of Greenway 3 as shown on said Plat; thence S 58°57'28" W along the Westerly line of said Greenway 3 a distance of 78.56 feet to the Northeast corner of Lot 7, Block 54 as shown on said Plat; thence S 85°52'35" W along the Northerly line of said Block 54 a distance of 251.43 feet to a point on the Westerly line of said Block 54; thence along the Westerly line of said Block 54 the following courses and distances: S 53°27'40" W a distance of 129.38 feet; thence S 33°12'14" W a distance of 129.39 feet; thence S 10°10'36" W a distance of 150.32 feet to the Southwest corner of Lot 11 of said Block 54; thence S 06°23'29" E along the West line of Greenway 4 as shown on said Plat a distance of 59.99 feet to the Northwest corner of Lot 7, Block 52 as shown on said Plat; thence along the Westerly line of said Block 52 the following courses and distances: S 22°29'49" E a distance of 144.98 feet;

thence S 31°54'09" E a distance of 138.60 feet to a point on the Southerly line of said Block 52; thence S 78°11'28" E along the Southerly line of said Block 52 a distance of 228.53 feet to the Southwest corner of Lot 3 of said Block 52; thence S 09°21'52" E along the West line of Greenway 5 as shown on said Plat a distance of 107.64 feet to the Northwest corner of Lot 2, Block 51 as shown on said Plat; thence along the Westerly line of said Block 51 the following courses and distances : S 39°07'24" W a distance of 267.65 feet; thence S 00°32'13" W a distance of 252.09 feet; thence S 31°54'27" E a distance of 135.03 feet to the most Westerly corner of Lot 8 of said Block 51; thence S 04°54'55" W along the West line of Greenway 4 lying South of said Lot 8, Block 51 and North of Lot 6, Block 47 as shown on said Plat, a distance of 64.55 feet to the Northwest corner of said Lot 6, Block 47; thence along the Northerly line of said Block 47 the following courses and distance : N 81°26'08" W a distance of 127.07 feet; thence S 69°09'12" W a distance of 129.16 feet to a point on the Westerly line of said Block 47; thence along the Westerly line of said Block 47 the following courses and distances : S 46°18'56" W a distance of 128.96 feet; thence S 23°22'07" W a distance of 129.08 feet; thence S 08°30'30" E a distance of 163.06 feet to the most Southerly corner of Lot 11 of said Block 47; thence S 26°23'05" E along the West line of Greenway 3 lying South of said Lot 11, Block 47 and North of Lot 11, Block 40 as shown on said Plat and along the Westerly line of said Block 40 a distance of 422.01 feet to the most Westerly corner of Lot 7 of said Block 40; thence S 41°02'16" E along the Southwesterly line of said Lot 7, Block 40 a distance of 120.64 feet to a point on the Southerly line of said Block 40; thence along the Southerly line of said Block 40 the following courses and distance : S 61°20'51" E a distance of 121.61 feet; thence S 76°39'46" E a distance of 121.62 feet; thence N 88°15'31" E a distance of 121.64 feet; thence N 77°08'44" E a distance of 91.93 feet; thence N 83°49'57" E a distance of 178.53 feet to a point on the Westerly right-of-way line of Country Club Road as shown on said Plat, said point being on the arc of a non tangent curve, concave Westerly, having a central angle of 06°44'44" and a radius of 4010.00 feet; thence Southerly along the arc of said curve and along said Westerly right-of-way line a distance of 472.10 feet to the Northeast corner of Lot 1, Block 39 as shown on said Plat ( chord bearing and distance between said points being S 05°51'52" E 471.83 feet ); thence along the Northerly line of said Block 39 the following courses and distances : S 89°43'43" W a distance of 367.50 feet; thence S 73°05'33" W a distance of 125.80 feet to a point on the Westerly line of said Block 39; thence S 40°55'23" W along the Westerly line of said Block 39 a distance of 125.61 feet; thence continue along the Westerly line of said Block 39 and along the West line of Greenway 2, lying South of Lot 10 of said Block 39 and North of Lot 6, Block 37 as shown on said Plat, and along the Westerly line of said Block 37, S 27°19'09" W a distance of 614.17 feet; thence continue along the Westerly line of said Block 37 S 37°44'32" E a distance of 217.18 feet to the most



Southerly corner of Lot 4 of said Block 37; thence S 22°32'13" W along the West line of Greenway 2 lying South of Lot 3 of said Block 37 and North of Lot 20, Block 27 as shown on said Plat, a distance of 115.01 feet to the most Easterly corner of Lot 19 of said Block 27; thence along the Northerly and Easterly lines of said Block 27 the following courses and distances : N 37°38'21" W a distance of 271.09 feet; thence S 88°52'22" W, a distance of 143.19 feet; thence S 64°58'04" W a distance of 303.42 feet; thence N 25°00'35" W a distance of 119.91 feet; thence S 65°08'34" W a distance of 192.00 feet; thence S 74°04'39" W a distance of 111.97 feet; thence S 82°08'35" W a distance of 43.45 feet; thence leaving the Northerly line of said Block 27, N 07°48'58" W a distance of 52.62 feet; thence N 11°19'01" W a distance of 119.72 feet; thence N 79°56'01" W a distance of 15.34 feet; thence N 06°46'04" E a distance of 65.11 feet; thence N 20°03'14" E a distance of 65.99 feet; thence N 87°19'26" E a distance of 12.72 feet to a point on a non tangent curve, concave Northwesterly, having a central angle of 40°55'26" and a radius of 359.00 feet; thence Northeasterly along the arc of said curve a distance of 256.42 feet to the point of reverse curvature of a curve ( chord bearing and distance between said points being N 72°29'01" E a distance of 251.00 feet ), concave Southeasterly, having a central angle of 43°07'10" and a radius of 180.00 feet; thence Northeasterly along the arc of said curve a distance of 135.46 feet to the point of reverse curvature of a curve, concave Northwesterly, having at central angle of 47°51'29" and a radius of 405.60 feet; thence Northeasterly along the arc of said curve a distance of 338.79 feet to a point ( chord bearing and distance between said points being N 71°12'14" E 329.03 feet ); thence N 38°55'40" W a distance of 175.50 feet; thence N 45°04'59" W a distance of 134.31 feet; thence S 70°54'23" W a distance of 77.22 feet; thence S 88°26'21" W a distance of 88.14 feet to a point on a non tangent curve, concave Southeasterly, having a central angle of 29°37'12" and a radius of 518.63 feet; thence Southwesterly along the arc of said curve a distance of 268.11 feet to the point of tangency of said curve ( chord bearing and distance between said points being S 68°44'26" W a distance of 265.14 feet ), said point being on the arc of a non tangent curve, concave Northerly, having a central angle of 79°03'34" and a radius of 62.03 feet; thence Southwesterly and Northwesterly along the arc of said curve a distance of 85.57 feet to the point of curvature of a curve (chord bearing and distance between said points being N 86°30'33" W 78.95 feet), concave Northeasterly, having a central angle of 29°32'58" and a radius of 104.83 feet; thence Northwesterly along the arc of said curve a distance of 54.06 feet to the point of reverse curvature of a curve, concave Southwesterly, having a central angle of 01°59'34" and a radius of 2234.64 feet; thence Northwesterly along the arc of said curve a distance of 77.72 feet to the point of reverse curvature of a curve, concave Southeasterly, having a central angle of 82°36'31" and a radius of 50.00 feet; thence Northeasterly along the arc of said curve a distance of 72.09 feet to the point

of tangency of said curve; thence N 62°38'41" E a distance of 131.11 feet to the point of curvature of a curve, concave Northwesterly, having a central angle of 91°36'50" and a radius of 144.00 feet; thence Northeasterly and Northwesterly along the arc of said curve a distance of 230.25 feet to the point of tangency of said curve; thence N 28°58'03" W a distance of 74.32 feet to the point of curvature of a curve, concave Southwesterly, having a central angle of 56°47'36" and a radius of 132.50 feet; thence Northwesterly along the arc of said curve a distance of 131.34 feet to the point of compound curvature of a curve, concave Southerly, having a central angle of 26°25'29" and a radius of 227.90 feet; thence Southwesterly along the arc of said curve a distance of 105.11 feet to the point of tangency of said curve; thence S 67°48'53" W a distance of 101.50 feet to the point of curvature of a curve, concave Northeasterly, having a central angle of 86°11'07" and a radius of 50.00 feet; thence Southwesterly and Northwesterly along the arc of said curve a distance of 75.21 feet to the point of reverse curvature of a curve, concave Southwesterly, having a central angle of 10°53'40" and a radius of 601.00 feet; thence Northwesterly along the arc of said curve a distance of 114.28 feet to the point of reverse curvature of a curve, concave Southeasterly, having a central angle of 104°14'28" and a radius of 50.00 feet; thence Northeasterly along the arc of said curve a distance of 90.97 feet to the point of reverse curvature of a curve, concave Northwesterly, having a central angle of 24°02'38" and a radius of 530.90 feet; thence Northeasterly along the arc of said curve a distance of 222.79 feet to the point of compound curvature of a curve, concave Westerly, having a central angle of 86°47'49" and a radius of 189.00 feet; thence Northeasterly and Northwesterly along the arc of said curve a distance of 286.31 feet to the point of tangency of said curve; thence N 43°29'39" W a distance of 91.36 feet to the point of curvature of a curve, concave Southerly, having a central angle of 82°30'10" and a radius of 157.50 feet; thence Northwesterly and Southwesterly along the arc of said curve a distance of 226.79 feet to the point of tangency of said curve; thence S 54°00'10" W a distance of 157.26 feet to the point of curvature of a curve, concave Northeasterly, having a central angle of 105°35'45" and a radius of 50.00 feet; thence Northwesterly along the arc of said curve a distance of 92.15 feet to the point of compound curvature of a curve, concave Easterly, having a central angle of 06°37'12" and a radius of 1340.56 feet; thence Northwesterly along the arc of said curve, a distance of 154.89 feet to the point of compound curvature of a curve, concave Southeasterly, having a central angle of 92°01'56" and a radius of 50.00 feet; thence Northeasterly along the arc of said curve a distance of 80.31 feet to the point of reverse curvature of a curve, concave Northwesterly, having a central angle of 14°34'38" and a radius of 665.00 feet; thence Northeasterly along the arc of said curve a distance of 169.19 feet to the point of compound curvature of a curve, concave Northwesterly, having a central angel of 68°17'04" and a radius of 166.62 feet; thence Northeasterly along the arc of said curve a distance of

198.57 feet to the point of reverse curvature of a curve, concave Easterly, having a central angle of 26°34'37" and a radius of 100.78 feet; thence Northeasterly along the arc of said curve a distance of 46.75 feet to the point of tangency of said curve; thence N 21°57'58" E a distance of 13.30 feet; thence N 38°04'31" W a distance of 106.93 feet; thence N 46°46'59" W a distance of 98.41 feet; thence N 55°57'20" W a distance of 98.24 feet; thence N 65°07'34" W a distance of 98.24 feet; thence N 73°45'49" W a distance of 89.70 feet; thence N 62°57'12" W a distance of 70.73 feet; thence N 45°03'03" W a distance of 77.53 feet; thence N 16°59'23" W a distance of 74.56 feet; thence N 10°42'56" E a distance of 74.56 feet; thence N 38°46'36" E a distance of 77.53 feet; thence N 44°54'08" W a distance of 121.58 feet to a point on the arc of a non tangent curve, concave Southeasterly, having a central angle of 18°05'23" and a radius of 325.00 feet; thence Southwesterly along the arc of said curve a distance of 102.61 feet to a point (chord bearing and distance between said points being S 39°44'51" W 102.19 feet); thence N 59°17'51" W a distance of 50.00 feet to a point on a non tangent curve, concave Southeasterly, having a central angle of 02°33'13" and a radius of 375.00 feet; thence Southwesterly along the arc of said curve a distance of 16.71 feet to a point ( chord bearing and distance between said points being S 29°25'32" W 16.71 feet ); thence N 56°31'23" W a distance of 9.97 feet to a point on a non tangent curve, concave Southeasterly, having a central angle of 39°42'30" and a radius of 324.00 feet; thence Southwesterly along the arc of said curve a distance of 224.54 feet to a point ( chord bearing and distance between said points being S 07°57'40" W 220.08 feet ); thence S 79°10'49" W a distance of 18.50 feet to a point on the East right-of-way line of Fairway Road (80.00 foot right-of-way) as shown on said plat, said point being on the arc of a non tangent curve, concave Southwesterly, having a central angle of 72°13'02" and a radius of 590.00 feet; thence Northwesterly along the arc of said curve and along said East right-of-way line a distance of 743.65 feet to the point of tangency of said curve ( chord bearing and distance between said points being N 48°02'30" W 695.39 feet ); thence continue along said right-of-way line N 84°09'01" W a distance of 136.28 feet to the point of curvature of a curve, concave Northeasterly, having a central angle of 89°02'54" and a radius of 25.00 feet; thence Northwesterly along the arc of said curve and along said right-of-way line a distance of 38.85 feet to the point of tangency of said curve, said point being on the East right-of-way line of Marigold Avenue (150.00 foot right-of-way) as shown on said plat; thence N 04°53'53" E along the East right-of-way line of said Marigold Avenue a distance of 11.91 feet to the point of curvature of a curve, concave Westerly, having a central angle of 08°01'14" and a radius of 3289.52 feet; thence Northerly along the arc of said curve and along said East right-of-way line a distance of 460.48 feet to a point on the Southerly line of Greenway 1 as shown on the plat of said Golf Villas II at Poinciana, (chord bearing and distance between said points

being N 00°53'16" E 460.11 feet); thence along the Southerly line of said Greenway 1 the following courses and distances: N 55°49'17" E, a distance of 269.01 feet; thence S 84°51'03" E a distance of 262.50 feet to a point on the East line of said Greenway 1; thence N 10°01'57" E along the East line of said Greenway 1 and along the East line of Tract A-1 as shown on said plat of Golf Villa II at Poinciana, a distance of 764.20 feet to the Point of Beginning.

Containing 177.61 acres more or less.

LESS AND EXCEPT:

Lot 67, Solivita – Phase VIA, according to the plat thereof, as recorded in Plat Book 131, Pages 30 through 35 of the Public Records of Polk County, Florida, being further described as follows:

Begin at the Northwest corner of said Lot 67; thence North 72°52'04 East along the Northwesterly line of said lot, 125.38 feet; thence South 17°02'52 East along the Northeasterly line of said lot, same being the Southwesterly line of Tract P-E18 as shown on said plat, 55.00 feet; thence South 72°52'04" West along the Southeasterly line of said lot, 125.30 feet; thence North 17°07'56" West along the Southwesterly line of said lot, same being the Northeasterly right-of-way line of Sorrento Road as shown on said plat, 55.00 feet to the Point of Beginning. Said lot contains 6,894 square feet, more or less.

LESS AND EXCEPT:

Lot 117, Solivita – Phase VIA, according to the plat thereof, as recorded in Plat Book 131, Pages 30 through 35 of the Public Records of Polk County, Florida, being further described as follows:

Begin at the Northwest corner of said Lot 117; thence North 80°34'33 East along the Northerly line of said lot, 131.58 feet; thence South 11°36'32 East along the Easterly line of said lot, same being the Westerly line of Tract G-4 as shown on said plat, 55.04 feet; thence South 80°34'33" West along the Southerly line of said lot, 134.44 feet to a point on the arc of a non-tangent curve concave Westerly having a radius of 325.00 feet, a central angle of 03°55'26" and a chord of 22.25 feet that bears North 07°27'44" West; thence Northerly along the arc of said curve and the Westerly line of said lot, same being the Easterly right-of-way line of Vizcaya Court as shown on said plat, 22.26 feet; thence North 09°25'27" West continuing along said lot line and said right-of-way line, 32.76 feet to the Point of Beginning. Said lot contains 7,300 square feet, more or less.

ALSO INCLUDING:

DESCRIPTION: SOLIVITA – PHASE VIB

A portion of Blocks 18 through 26, Tract K-5, Greenway 1 (lying Southeasterly and Easterly of Block 23), Greenway 1 (lying between Blocks 22 and 23), Greenway 1 (lying South of Block 26), Greenway 2 (lying between Blocks 24 and 26), Greenway 3 (lying between Blocks 21 and 22) and a portion of the following publicly dedicated road right-of-ways (all 60-foot-wide): Cart Lane, Long Court, Score Drive and Spike Drive, of the Replat of a Portion of Poinciana Neighborhood 1,

Village 3, as recorded in Plat Book 58, Pages 31 through 38, Public Records of Polk County, Florida, (Please note that the portions of the Replat of a Portion of Poinciana Neighborhood 1, Village 3 plat described above were vacated by the Polk County Board of County Commissioners at their July 27, 2005 meeting) being more particularly described as follows:

Commence at the Northwest corner of Section 13, Township 27 South, Range 28 East, Polk County, Florida; thence South 89°57'44" East along the North line of said Section 13, 2472.78 feet to the Northeast corner of Golf Villas II at Poinciana, as recorded in Plat Book 72, Pages 16 through 18, Public Records of Polk County, Florida; thence South 10°01'57" West along the East line of Tract A-1 as shown on said plat of Golf Villa II at Poinciana and along the East line of Greenway 1 as shown on said plat, 764.20 feet to a point on the Southerly line of said Greenway 1; thence along said Southerly line the following courses and distances: North 84°51'03" West, 262.50 feet; thence South 55°49'17" West, 269.01 feet to a point on a non-tangent curve, concave Westerly, having a central angle of 08°01'14" and a radius of 3289.52 feet, said point being on the East right-of-way line of Marigold Avenue as shown on the plat of Poinciana Neighborhood 1 Village 3, as recorded in Plat Book 52, Pages 8 through 18 of the Public Records of Polk County, Florida; thence Southerly along the arc of said curve and along said East right-of-way line a distance of 460.48 feet to the point on tangency of said curve (chord bearing and distance between said points being South 00°53'16" West 460.11 feet); thence South 04°53'53" West along the East right-of-way line of said Marigold Avenue, 11.91 feet to the point of curvature of a curve, concave Northeasterly, having a central angle of 89°02'54" and a radius of 25.00 feet; thence Southeasterly along the arc of said curve and along said right-of-way line, 38.85 feet to the point of tangency of said curve, said point being on the North right-of-way line of Fairway Road as shown on said plat; thence along said North right-of-way line the following courses and distances: South 84°09'01" East a distance of 136.28 feet to the point of curvature of a curve, concave Southwesterly, having a central angle of 72°13'02" and a radius of 590.00 feet; thence Southeasterly along the arc of said curve and along said right-of-way line a distance of 743.65 feet to the Point of Beginning; thence North 79°10'56" East, 18.50 feet to a point on the arc of a non-tangent curve concave East having a radius of 324.00 feet and a chord bearing and distance of North 07°57'40" East, 220.08 feet; thence Northerly along the arc of said curve, through a central angle of 39°42'30", a distance of 224.55 feet; thence South 56°31'23" East, 9.97 feet to a point on the arc of a non-tangent curve concave Southeast having a radius of 375.00 feet and a chord bearing and distance of North 29°25'32" East, 16.71 feet; thence Northeasterly along the arc of said curve, through a central angle of 02°33'13", a distance of 16.71 feet; thence South 59°17'51" East, 50.00 feet to a point on the arc of a non-tangent curve concave Southeast having a radius of 325.00 feet and chord bearing and distance

of North 39°44'51" East, 102.19 feet; thence Northeasterly along the arc of said curve, through a central angle of 18°05'23", a distance of 102.61 feet; thence South 44°54'08" East, 121.58 feet; thence South 38°46'36" West, 77.53 feet; thence South 10°42'56" West, 74.56 feet; thence South 16°59'23" East, 74.56 feet; thence South 45°03'03" East, 77.53 feet; thence South 62°57'12" East, 70.73 feet; thence South 73°45'49" East, 89.70 feet; thence South 65°07'34" East, 98.24 feet; thence South 55°57'20" East, 98.24 feet; thence South 46°46'59" East, 98.41 feet; thence South 38°04'31" East, 106.93 feet; thence South 21°57'58" West, 13.30 feet to the point of curvature of a curve concave East having a radius of 100.78 feet, a central angle of 26°34'37", and a chord bearing and distance of South 08°31'13" West, 46.33 feet; thence Southerly along the arc of said curve a distance of 46.75 feet to a point of reverse curvature of a curve concave Northwest having a radius of 166.62 feet and a central angle of 68°17'04"; thence Southwesterly along the arc of said curve, a distance of 198.57 feet to the point of compound curvature of a curve, concave North having a radius of 665.00 feet and a chord bearing and distance of South 70°53'44" West, 168.73 feet; thence Westerly along the arc of said curve, through a central angle of 14°34'38", a distance of 169.19 feet to a point of reverse curvature of a curve concave Southeast having a radius of 50.00 feet and a central angle of 92°01'56"; thence Southwesterly along the arc of said curve, a distance of 80.31 feet to a point of compound curvature of a curve concave East having a radius of 1,340.56 feet and a central angle of 06°37'12"; thence Southerly along the arc of said curve, a distance of 154.89 feet to a point of compound curvature of a curve concave North having a radius of 50.00 feet and a central angle of 105°35'45"; thence Easterly along the arc of said curve, a distance of 92.15 feet; thence North 54°00'10" East, 157.26 feet to a point on the arc of a curve concave South having a radius of 157.50 feet, a central angle of 82°30'10", and a chord bearing and distance of South 84°44'44" East, 207.70 feet; thence Easterly along the arc of said curve a distance of 226.79 feet; thence South 43°29'39" East, 91.36 feet to a point on the arc of a curve concave West having a radius of 189.00 feet, a central angle of 86°47'49", and a chord bearing and distance of South 00°05'45" East, 259.71 feet; thence Southerly along the arc of said curve a distance of 286.31 feet to a point of compound curvature of a curve concave Northwest having a radius of 530.90 feet and a central angle of 24°02'38"; thence Southwesterly along the arc of said curve, a distance of 222.79 feet to a point of reverse curvature of a curve concave East having a radius of 50.00 feet and a central angle of 104°14'28"; thence Southerly along the arc of said curve, a distance of 90.97 feet to a point of reverse curvature of a curve concave Southwest having a radius of 601.00 feet and a central angle of 10°53'40"; thence Southeasterly along the arc of said curve, a distance of 114.28 feet to a point of reverse curvature of a curve concave North having a radius of 50.00 feet and a central angle of 86°11'07";

thence Easterly along the arc of said curve, a distance of 75.21 feet; thence North 67°48'53" East, 101.50 feet to a point on the arc of a curve concave South having a radius of 227.90 feet, a central angle of 26°25'29", and a chord bearing and distance of North 81°01'37" East, 104.18 feet; thence Easterly along the arc of said curve a distance of 105.11 feet to a point of compound curvature of a curve concave Southwest having a radius of 132.50 feet and a central angle of 56°47'36"; thence Southeasterly along the arc of said curve, a distance of 131.34 feet; thence South 28°58'03" East, 74.32 feet to a point on the arc of a curve concave West having a radius of 144.00 feet, a central angle of 91°36'50", and a chord bearing and distance of South 16°50'22" West, 206.49 feet; thence Southerly along the arc of said curve a distance of 230.25 feet; thence South 62°38'47" West, 131.11 feet to a point on the arc of a curve concave East having a radius of 50.00 feet, a central angle of 82°36'31", and a chord bearing and distance of South 21°20'32" West, 66.01 feet; thence Southerly along the arc of said curve a distance of 72.09 feet to a point of reverse curvature of a curve concave West having a radius of 2234.64 feet and a central angle of 01°59'34"; thence Southerly along the arc of said curve, a distance of 77.72 feet to the point of reverse curvature of a curve concave Northeast having a radius of 104.83 feet and a chord bearing and distance of South 32°42'55" East, 53.47 feet; thence Southeasterly along the arc of said curve, through a central angle of 29°32'58", a distance of 54.06 feet to the point of tangency of said curve, said point being on the arc of a non-tangent curve concave North having a radius of 62.03 feet and a chord bearing and distance of South 86°31'17" East, 78.95 feet; thence Easterly along the arc of said curve, through a central angle of 79°04'28", a distance of 85.57 feet to the point of curvature of a curve concave South having a radius of 518.63 feet and a chord bearing and distance of North 68°44'26" East, 265.14 feet; thence Easterly along the arc of said curve, through a central angle of 29°37'12", a distance of 268.11 feet; thence North 88°26'21" East, 88.14 feet; thence North 70°54'23" East, 77.22 feet; thence South 45°04'59" East, 134.31 feet; thence South 38°55'40" East, 175.50 feet to the point on the arc of a non-tangent curve concave North having a radius of 405.60 feet and a chord bearing and distance of South 71°12'44" West, 329.03 feet; thence Westerly along the arc of said curve, through a central angle of 47°51'29", a distance of 338.79 feet to a point of reverse curvature of a curve concave South having a radius of 180.00 feet and a central angle of 43°07'10"; thence Westerly along the arc of said curve, a distance of 135.46 feet to a point of reverse curvature of a curve concave North having a radius of 359.00 feet and a central angle of 40°55'26"; thence Westerly along the arc of said curve, a distance of 256.42 feet; thence South 87°19'26" West, 12.72 feet; thence South 20°03'14" West, 65.99 feet; thence South 06°46'04" West, 65.11 feet; thence South 79°52'10" East, 15.34 feet; thence South 11°19'01" East, 119.72 feet; thence South 07°48'58" East, 52.62 feet; thence South 82°08'35" West, 273.79 feet to a point on the aforesaid Westerly right-of-way line of Fairway

Road; thence North 01°02'42" West along said Westerly right-of-way line, 108.48 feet to a point on the arc of a curve concave West having a radius of 1,790.51 feet, a central angle of 30°48'08", and a chord bearing and distance of North 16°26'46" West, 951.03 feet; thence Northerly along the arc of said curve and said Westerly right-of-way line a distance of 962.58 feet; thence North 31°50'49" West along said right-of-way line, 414.62 feet to a point on the arc of a curve concave East having a radius of 1,660.00 feet, a central angle of 24°16'23", and a chord bearing and distance of North 19°42'38" West, 698.00 feet; thence Northerly along the arc of said curve and said Westerly Right-of-Way Line a distance of 703.25 feet; thence North 07°34'27" West, 566.77 feet to a point on the arc of a curve concave West having a radius of 590.00 feet, a central angle of 04°21'33", and a chord bearing and distance of North 09°45'13" West, 44.88 feet; thence Northerly along the arc of said curve and said Westerly right-of-way line a distance of 44.89 feet to the POINT OF BEGINNING.

Containing 35.03 acres, more or less.

LESS AND EXCEPT:

Lot 31, Solivita – Phase VIB, according to the plat thereof, as recorded in Plat Book 133, Pages 14 through 17 of the Public Records of Polk County, Florida, being further described as follows:

Begin at the Northwest corner of said Lot 31; thence North 57°47'34" East along the Northwesterly line of said lot and the Southeasterly Right-of-Way line of Amalfi Lane as shown on said plat, 80.00 feet; thence South 32°15'06" East along the Northeasterly line of said lot, 143.74 feet to a point on the arc of a non-tangent curve concave Northwesterly having a radius of 530.90 feet, a central angle of 08°40'30" and a chord of 80.30 feet that bears South 60°45'09" West; thence Southwesterly along the arc of said curve and the Northwesterly line of Tract P-E3, Solivita – Phase VIA, according to the plat thereof, as recorded in Plat Book 131, Pages 30 through 35 of the Public Records of Polk County, Florida, 80.38 feet; thence North 32°10'20" West along the Southwesterly line of said lot, 139.60 feet to the Point of Beginning. Said lot contains 11,429 square feet, more or less.  
ALL TOGETHER CONTAINING A TOTAL ACREAGE OF 3239.728 acres.

Specific Authority 190.005, 190.046 FS. Law Implemented 190.004, 190.005, 190.046 FS. History—New 11-1-99, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Lisa Saliba

NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Lisa Saliba

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: November 20, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: October 26, 2007

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Construction Industry Licensing Board**

RULE NO.: 61G4-15.032  
 RULE TITLE: Certification of Swimming Pool Specialty Contractors

PURPOSE AND EFFECT: The Board proposes the rule amendment to extend the practical examination date.

SUMMARY: The rule amendment will extend the practical examination date.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 455.217, 489.113(6), 489.108, 489.115(4) FS.

LAW IMPLEMENTED: 455.217, 489.113(6), 489.108, 489.115(4) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: G. W. Harrell, Executive Director, Construction Industry Licensing Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G4-15.032 Certification of Swimming Pool Specialty Contractors.

- (1) through (2) No change.
- (3) Certification Procedures.
- (a)1. through 2.d.I. No change.

II. Until January 1, ~~2009~~ ~~2008~~, an applicant who completes three (3) hours of board-approved continuing education, consisting of one hour of workplace safety, one hour of business practices, and one hour of workers' compensation, may qualify, if the applicant successfully passes a practical examination for certification in the category of swimming pool specialty contractor applied for in lieu of a written examination for licensure.

- (b) No change.

Specific Authority 455.217, 489.113(6), 489.108, 489.115(4) FS.  
 Law Implemented 455.217, 489.113(6), 489.108, 489.115(4) FS.  
 History--New 1-4-06, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Construction Industry Licensing Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Construction Industry Licensing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 12, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 21, 2007

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Engineers**

RULE NOS.: 61G15-20.001, 61G15-20.007  
 RULE TITLES: Definitions, Demonstration of Substantial Equivalency

PURPOSE AND EFFECT: For both Rules 61G15-20.001 and 61G15-20.007, F.A.C., it is to delete unnecessary language and update existing language.

SUMMARY: In both Rules 61G15-20.001 and 61G15-20.007, F.A.C., unnecessary language is deleted and existing language is updated.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 471.008, 471.013(1)(a) FS.

LAW IMPLEMENTED: 471.013, 471.015 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Carrie Flynn, Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-20.001 Definitions.

As used hereinafter in this chapter the following words or phrases shall be defined as follows:

- (1) No change.
- (2) "Board approved engineering programs" shall mean:
  - (a) No change.

(b) In the case of an applicant who did not graduate from an approved program as set forth in paragraph (2)(a) above, and who ~~either:~~

~~1. Holds a post baccalaureate degree from a school or college in the United States which has an EAC/ABET accredited engineering program in a related discipline at the baccalaureate level, or~~

~~2. Holds a baccalaureate degree from an engineering program that is not accredited by EAC/ABET, provided the applicant meets the educational requirements set forth in ~~ann~~~~

~~demonstrate substantial equivalency to an EAC/ABET accredited program pursuant to subsection 61G15-20.007(1)(2), F.A.C., or~~

(c) No change.

Specific Authority 471.013(1)(a) FS. Law Implemented 471.013(1)(a) FS. History—New 1-8-80, Amended 4-15-80, 7-7-83, 9-13-83, Formerly 21H-20.01, Amended 4-20-86, 8-3-86, 5-20-92, 2-2-93, Formerly 21H-20.001, Amended 11-19-03, 3-13-05, 4-9-07, \_\_\_\_\_.

61G15-20.007 Demonstration of Substantial Equivalency.

(1) Applicants having engineering degrees from programs that are not accredited by EAC/ABET ~~shall be required to document substantial equivalency to an EAC/ABET accredited engineering program.~~

~~(2) In order to document and prove substantial equivalency to an EAC/ABET accredited engineering program, the applicant must demonstrate:~~

(a) through (b) No change.

(3) through (5) renumbered (2) through (4) No change.

Specific Authority 471.008 FS. Law Implemented 471.013, 471.015 FS. History—New 7-20-95, Amended 6-5-96, 4-16-98, 1-17-99, 7-28-99, 1-6-02, 6-13-02, 6-30-02, 10-2-03, 6-16-04, 3-13-05, 5-1-05, 6-11-06, 1-29-07, 4-9-07, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Professional Engineers

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Professional Engineers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 17, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 21, 2007

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Engineers**

RULE NO.: 61G15-23.002      RULE TITLE: Seal, Signature and Date Shall Be Affixed

PURPOSE AND EFFECT: Purpose and effect is to delete unnecessary language and update existing language.

SUMMARY: Unnecessary language is deleted and existing language is updated.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 471.025 FS.

LAW IMPLEMENTED: 471.025 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Carrie Flynn, Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-23.002 Seal, Signature and Date Shall Be Affixed.

(1) No change.

(2) Each sheet of plans and prints which must be sealed under the provisions of Chapter 471, F.S., shall be sealed, signed and dated by the professional engineer in responsible charge. ~~Engineers shall legibly indicate their name, address, and license number on each sheet. If practicing through a duly authorized engineering business, engineers shall legibly indicate their name and license number, as well as, the name, address, and certificate of authorization number of the engineering business on each sheet.~~ A title block shall be used on each sheet containing the printed name, address, and license number of the engineer or if applicable, the name and license number of the engineer, and if practicing through a duly authorized engineering business, the name, address and certificate of authorization number of the engineering business, will satisfy this requirement. Engineers working for local, State or Federal Government agencies shall legibly indicate their name and license number, and may indicate the name and address of the agency. A cover or index sheet for engineering specifications may be used and that sheet must be signed, sealed and dated by those professional engineers in responsible charge of the production and preparation of each section of the engineering specification, and if practicing through a duly authorized engineering business, the name, address and certificate of authorization number of the engineering business, with sufficient information on the cover sheet or index so that the user will be aware of each portion of the specifications for which each professional engineer is responsible. Engineering reports must be signed, sealed and dated on a signature page or cover letter by each professional engineer who is in responsible charge of any portion of the report, and if practicing through a duly authorized engineering business, the name, address and certificate of authorization number of the engineering business. A professional engineer may only seal an engineering report, plan, print or specification if that professional engineer was in responsible charge of the preparation and production of the engineering document and the professional engineer has the expertise in the engineering discipline used in producing the engineering document in question.

(3) through (5) No change.

Specific Authority 471.025 FS. Law Implemented 471.025 FS. History--New 1-8-80, Amended 1-20-85, Formerly 21H-23.02, Amended 5-14-86, Formerly 21H-23.002, Amended 11-15-94, 8-18-98, 2-3-00, 2-22-01, 2-5-04,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Professional Engineers  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Professional Engineers  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 17, 2007  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 21, 2007

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Engineers**

RULE NOS.:	RULE TITLES:
61G15-32.001	General Responsibility
61G15-32.002	Definitions
61G15-32.003	Common Requirements to All Fire Protection Engineering Documents
61G15-32.008	Design of Fire Alarms, Signaling Systems and Control System

PURPOSE AND EFFECT: The purpose and effect for Rule 61G15-32.001, F.A.C., is to clarify existing language and to add tasks for which an Engineer of Record is responsible; for Rule 61G15-32.002, F.A.C., it is to add a new requirement with regard to Fire Protection Delegated Engineering Documents; for Rule 61G15-32.003, F.A.C., it is to add new requirements for Fire Protection Electrical Engineering Documents; for Rule 61G15-32.008, F.A.C., it is to replace old definitions of fire alarms, signaling, and control systems with new definitions and to establish new requirements for such fire alarms, signaling, and control systems.

SUMMARY: In Rule 61G15-32.001, F.A.C., existing language is clarified and tasks for which an Engineer of Record is responsible are added; in Rule 61G15-32.002, F.A.C., a new requirement with regard to Fire Protection Delegated Engineering Documents is added; in Rule 61G15-32.003, F.A.C., new requirements for Fire Protection Electrical Engineering Documents are added; in Rule 61G15-32.008, F.A.C., old definitions of fire alarms, signaling, and control systems are replaced with new definitions and new requirements for such fire alarms, signaling, and control systems are established.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 471.008, 471.033(2) FS.  
LAW IMPLEMENTED: 471.005(7), 471.033 FS.  
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.  
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Carrie Flynn, Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULES IS:

61G15-32.001 General Responsibility.  
Fire protection engineering documents shall be prepared ~~utilizing in accordance with~~ applicable ~~technologies~~ technology and shall comply with the requirements of the authority having jurisdiction. The documents shall identify the Engineer of Record for the project. Both the ~~E~~ngineer of ~~R~~ecord for the fire protection system and the delegated engineer, if utilized, shall comply with the requirements of the general responsibility rules, Chapter 61G15-30, F.A.C., and with the requirements of the more specific rules contained herein. The Engineer of Record for the Fire Protection System(s) shall provide design requirements in writing to the delegated engineer if one is used and shall review the design documents of the delegated engineer for conformance to his written instructions in accordance with Rule 61G15-30.005, F.A.C. Any Fire Protection Delegated Engineering Documents must be included in the final set of documents filed for permit.

Specific Authority 471.008, 471.033(2) FS. Law Implemented 471.033 FS. History--New 5-19-93, Formerly 21H-32.001, Amended\_\_\_\_\_.

61G15-32.002 Definitions.  
(1) through (9) No change.  
(10) Fire Protection Delegated Engineering Documents. Fire Protection System Engineering Documents prepared by a delegated engineer to whom the Engineer of Record for the Fire Protection System has delegated responsibility for the design of a fire protection component or system and which are signed sealed and dated by the delegated engineer.

Specific Authority 471.008, 471.033(2) FS. Law Implemented 471.005(7), 471.033(2) FS. History--New 5-19-93, Formerly 21H-32.002, Amended 4-2-00, 6-26-01,\_\_\_\_\_.

61G15-32.003 Common Requirements to All Fire Protection Engineering Documents.  
(1) through (8) No change.  
(9) Fire Protection Electrical Engineering Documents shall additionally meet the requirements of 61G15-30.003, Engineering Documents.

Specific Authority 471.008, 471.033(2) FS. Law Implemented 471.005(7), 471.033(2) FS. History--New 5-19-93, Formerly 21H-32.003, Amended 4-2-00, 6-26-01,\_\_\_\_\_.

(Substantial rewriting of Rule 61G15-32.008 follows. See Florida Administrative Code for present text.)

61G15-32.008 Design of Fire Alarms, Signaling Systems and Control System.

(1) Fire alarms, signaling and control system include but are not limited to fire protection supervision, emergency alarm circuits, activation of life safety system controls and remote signaling of emergency conditions.

(2) The design specifications shall be based on applicable codes, when applicable, or alternate engineering sources including published underwriter's engineering documents, and sound engineering practices.

(3) For fire alarm plans on small systems below the threshold requirements for mandatory use of professional engineering services, the Engineer of Record shall specify the minimum system requirements.

(4) To ensure minimum design quality of Fire Alarm Signaling and Control Systems Engineering Documents, said documents shall include as a minimum the following information when applicable:

(a) The plans shall be clear, with a symbols legend, system riser diagram showing all initiation and notification components, and cabling requirements. Indicate locations where fire ratings are required as determined by the system's survivability requirements. Identify the general occupancy of the protected property, and for each rooms and area unless it is clear from features shown.

(b) Locate initiation and notification devices and connections to related systems on the floor plans and sections when needed for clarity). Related systems include, but are not limited to sprinkler systems, elevator controls, smoke control systems, dampers, and doors.

(c) Strobe intensity and speaker output ratings for all notification devices.

(d) Identify the Class and Style of circuits as listed in the NFPA 72.

(e) Identify the functions required by the alarm and control systems including the transmission of emergency signals being monitored or annunciated.

(f) Indicate whether the fire alarm is conventional or addressable, and indicate all zoning.

(g) Locate surge protective devices and required protective features.

(h) Locate system devices that are subject to environmental factors, and indicate requirements for the protection of equipment from temperature, humidity or corrosive atmospheres, including coastal salt air.

(i) The plans shall include a site plan of the immediate area around the protected building, structure or equipment when alarm devices are required outside the structure.

(j) In buildings where smoke detection will be obstructed by walls, beams or ceiling features, the Engineer of Record shall provide applicable design and details to direct the installer to mitigate the obstructions. In buildings with smoke detection under a pitched roof, the plans shall indicate the roof pitch and a building section shall be provided as part of the Engineering Design Documents.

(k) Fire detection systems utilizing smoke detection in situations where smoke stratification is anticipated, the design shall provide the necessary criteria to mitigate the problem.

(l) Systems designed using Performance Based criteria shall be identified and referenced to design guides or standards acceptable to the Florida State Fire Marshal or the Florida Building Code.

(m) The system design must indicate if the system is to provide a general evacuation signal or a zoned evacuation for all high-rise buildings or multi-tenanted properties.

(n) Wiring requirements for underground, wet locations, campus style wiring, protection against damage and burial depth shall be specified or indicated on the engineering design documents.

(o) Complete requirements for operations and maintenance procedures, manuals, system documentation, and instruction of Owner's operating personnel, as needed to operate the systems as intended over time.

(5) In the event that the Engineer of Record elects to specify specific equipment and to show the required wiring, battery and voltage drop (circuit analysis) calculations shall be completed. The calculations shall be completed using the equipment manufacturer's data and applicable NFPA 72 procedures.

(6) System test requirements shall be noted on the Engineering Design Documents.

(7) When the engineer determines that special requirements are required by the owner, insurance underwriter or local fire code amendments these requirements shall be documented or referenced on the Engineering Design Documents.

Specific Authority 471.008, 471.033(2) FS. Law Implemented 471.033 FS. History--New 5-19-93, Formerly 21H-32.008, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Professional Engineers

NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Board of Professional Engineers

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: October 17, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: November 21, 2007



**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Engineers**

RULE NOS.:	RULE TITLES:
61G15-34.001	General Responsibility
61G15-34.002	Definitions
61G15-34.003	Design of Heating Ventilation and Air Conditioning Systems
61G15-34.007	Design of Plumbing Systems

PURPOSE AND EFFECT: The purpose and effect for Rule 61G15-34.001, F.A.C., is to clarify existing language and to add tasks for which an Engineer of Record is responsible; for Rule 61G15-34.002, F.A.C., it is to clarify and amend existing definitions and add a new definition for Mechanical Delegated Engineering Documents; for Rule 61G15-34.003, F.A.C., it is to delete unnecessary language and add new requirements with respect to Mechanical Engineering Documents; for Rule 61G15-34.007, F.A.C., it is to clarify existing language.

SUMMARY: In Rule 61G15-34.001, F.A.C., existing language is clarified and tasks for which an Engineer of Record is responsible are added; in Rule 61G15-34.002, F.A.C., existing definitions are clarified and amended and a new definition is added for Mechanical Delegated Engineering Documents; in Rule 61G15-34.003, F.A.C., unnecessary language is deleted and new requirements with respect to Mechanical Engineering Documents are added; in Rule 61G15-34.007, F.A.C., existing language is clarified.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 471.008, 471.033(2) FS.

LAW IMPLEMENTED: 471.033 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Carrie Flynn, Executive Director, Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-34.001 General Responsibility.

Mechanical Engineering Documents shall be prepared utilizing ~~in accordance with the~~ applicable technologies and shall comply with the requirements of the authority having jurisdiction. The documents shall identify the Engineer of Record for the mechanical systems project. Mechanical Engineering documents shall demonstrate compliance ~~be~~

~~prepared in accordance~~ with the requirements of the applicable codes and standards as defined herein. The Engineer of Record is responsible for determining the applicability of appropriate codes and standards for a given project. In the event the codes and standards fail to cover or address a specific requirement or situation, alternative research, test results, engineering data, and engineering calculations shall be utilized. New technology may be utilized when said technology has been demonstrated to provide equivalent or improved performance. Construction documents shall indicate the nature and character of mechanical work and shall describe, label and define the required mechanical systems components, processes, equipment and material and its structural utility support systems. Both the Engineer of Record for the Mechanical System and the Delegated Engineer if utilized, shall comply with the requirements of the general responsibility Rules, 61G15-30, F.A.C., and with the requirements of the specific rules contained herein. The Engineer of Record for the Mechanical System(s) shall provide design requirements in writing to the delegated engineer if one is used and shall review the design documents of the delegated engineer for conformance to his written instructions in accordance with Rule 61G15-30.005, F.A.C. Any Mechanical Delegated Engineering Documents must be included in the final set of documents filed for permit.

Specific Authority 471.008, 471.033(2) FS. Law Implemented 471.033 FS. History—New 11-16-94, Amended.

61G15-34.002 Definitions.

(1) Engineer of Record for the Mechanical Systems. The Florida ~~Registered~~ Professional Engineer who is in responsible charge for the preparation, signing, dating, sealing and issuing of any engineering document(s) for ~~develops the~~ mechanical systems design criteria or performs the analysis and is responsible for the preparation of the mechanical documents for the project.

(2) through (4) No change.

(5) Mechanical Engineering Documents. All The mechanical drawings, specifications, reports, calculations, data and other documents utilized to establish setting forth the overall design and requirements for the construction, alteration, modernization, repair, demolition, arrangement, and/or use of the mechanical system(s), or analysis or recommendations, as prepared by the Engineer of Record for the mechanical system. Mechanical Engineering Documents shall additionally meet the requirements of Rule 61G15-30.003, F.A.C., Engineering Documents.

(6) Mechanical Shop Drawings Submittals. Submittals, catalog information on standard products, or drawings prepared solely to serve as a guide for fabrication and installation and requiring no engineering input. These submittals do not require the seal of a Florida ~~Registered~~ Professional Engineer.

(7) Codes and Standards. Those nationally recognized Codes and Standards adopted directly or by reference in Part II, Chapter 553, Florida Statutes: Florida Building Code (including Florida Energy Efficiency Code, Chapter 13) and Florida Fire Code. Applicable codes and standards are those promulgated by the State Fire Marshal and those required by the state and local authorities having jurisdiction. These codes and standards include those published by the National Fire Protection Association (NFPA), The American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), The American Society for Testing Materials (ASTM), American Society for Mechanical Engineers (ASME), National Electrical Manufacturers Association (NEMA), American National Standards Institute (ANSI), Underwriters' Laboratories (UL), American Society of Plumbing Engineers (ASPE), Sheet Metal and Air Conditioning Contractor's Association (SMACNA), American Movement and Control Association (AMCA), Air Conditioning and Refrigeration Institute (ARI), SBCCA Mechanical and Plumbing Codes, Florida Energy Code, State Building Codes.

(8) Mechanical Delegated Engineering Documents. Mechanical Engineering Documents prepared by a delegated engineer to whom the Engineer of Record for the Mechanical System has delegated responsibility for the design of a mechanical component or system and which are signed sealed and dated by the delegated engineer.

Specific Authority 471.008, 471.033(2) FS. Law Implemented 471.033 471.030 FS. History—New 11-16-94, Amended 2-5-96, \_\_\_\_\_.

61G15-34.003 Design of Heating Ventilation and Air Conditioning Systems.

(1) Heating, Ventilating, and Air Conditioning (HVAC) Systems include, but are not limited to are those systems that control the temperature and/or humidity, and/or mechanical ventilation of a particular space or building. Items to be considered in the design and analysis of these systems are ambient dry and wet bulb temperatures, inside dry and wet bulb temperatures, inside design humidity, fresh air makeup, internal heat gains from any sources. Ventilation systems shall be designed to remove foul odors from a space or building, or to remove space heat from equipment rooms.

(2) All HVAC systems shall be designed in accordance with the Florida Codes, and reference standards ASHRAE Standards and Building Code as adopted by the authority having jurisdiction. The HVAC systems shall be designed and operated such that the entire building is under positive or neutral pressure when all primary HVAC systems are operating.

(2) Mechanical Engineering documents applicable to HVAC systems shall, where applicable, include but are not limited to the following:

(a) Equipment selection schedule for each piece of mechanical equipment. All equipment shall have capacities listed including efficiencies, electrical or fuel requirements, static pressure and fan air quantities as applicable to the system, fluid flow and pressure head quantities as applicable to the system, and heat transfer capacities.

(b) Floor plans; site plans; and building and mechanical system elevations as appropriate.

(c) Outside (fresh) air make-up conditions.

(d) Cooling coil requirements based on sensible heat, latent heat and total heat gains.

(e) Heating equipment requirements.

(f) Outside and inside design dry and wet bulb conditions.

(g) Exhaust riser diagrams.

(h) Outside air riser diagrams.

(i) Process flow diagrams with pipe sizes and fluid flow quantities.

(j) Condensate discharge piping with pipe sizes.

(k) Instrumentation and Control System diagrams and sequence of operation.

(l) Ductwork layout and sizing; insulation; supply, return, and exhaust inlet and outlet sizes; and outside air intake sizes. Air quantities shall be specified for inlets and outlets.

(m) Florida Energy Code calculations as applicable.

(n) NFPA Standards and all required fire protection devices and systems.

(3) The Engineer of Record shall determine the level of detail shown on plans for a HVAC system for mechanical engineering plans pertaining to HVAC systems exempted by the threshold requirements for mandatory use of professional engineering services. All such plans shall provide a clear understanding of the minimum system requirements expected to be installed by the contractor.

(4) For Mechanical Engineering Documents pertaining to HVAC systems that exceed the threshold requirements for mandatory use of professional engineering services, the plans shall have the following minimum indicate the following:

(a) Demonstrate and provide adequate information for the AHJ to determine compliance with codes and ordinances. These may include test methods and results; data and tabulations for Energy Conservation that are results of the design.

(b) Equipment selection schedule for each piece of mechanical equipment. All equipment shall have capacities listed including efficiencies, electrical or fuel requirements, static pressure and fan air quantities as applicable to the system, fluid flow and pressure head quantities as applicable to the system, and heat transfer capacities.

(c) Floor plans; site plans; and building and mechanical system elevations as appropriate.

(d) Outside (fresh) air make-up conditions.

- (e) Cooling coil requirements based on sensible heat, latent heat and total heat gains.
- (f) Heating equipment requirements.
- (g) Outside and inside design dry and wet bulb conditions.
- (h) Exhaust riser diagrams on buildings more than three stories when ductwork travels vertically.
- (i) Outside air riser diagrams on buildings more than three stories when ductwork travels vertically.
- (j) Process flow diagrams with pipe sizes and fluid flow quantities.
- (k) Condensate discharge piping layout with pipe sizes.
- (l) Instrumentation and Control System diagrams and sequence of operation.
- (m) Ductwork layout and sizing; insulation requirements, supply, return, and exhaust inlet and outlet sizes; and outside air intake sizes. Air quantities shall be specified for inlets and outlets.
- (n) All data needed to complete the Florida Energy Code calculations as applicable.
- (o) A list of referenced NFPA Standards and layouts of all required fire protection devices and systems.
- (p) Building pressurization criteria.

Specific Authority 471.008, 471.033(2) FS. Law Implemented 471.033 FS. History—New 11-16-94, Amended \_\_\_\_\_.

61G15-34.007 Design of Plumbing Systems.

- (1) No change.
- (2) Mechanical Engineering Documents applicable to Plumbing Systems shall when applicable, include but are not limited to the following:
  - (a) through (b) No change.
  - (c) Potable Water isometric diagrams with pipe sizes and total water fixture units.
  - (d) through (m) No change.

Specific Authority 471.008, 471.033(2) FS. Law Implemented 471.033 FS. History—New 11-16-94, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Professional Engineers  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Professional Engineers  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 17, 2007  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 21, 2007

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Accountancy**

RULE NOS.:	RULE TITLES:
61H1-22.0081	Standards for Florida Single Audit Act Audits for Nonprofit and For-Profit Organizations
61H1-22.0082	Standards for Audits of Certain Nonprofit Organizations
61H1-22.0083	Standards for Audits of District School Boards
61H1-22.0084	Standards for Audits of Charter Schools and Similar Entities

PURPOSE AND EFFECT: The Board proposes the rule promulgations in order to specify the standards for various types of audits.

SUMMARY: The standards for various types of audits will be specified.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 473.304, 473.315 FS., Chapter 79-202, Laws of Florida.

LAW IMPLEMENTED: 473.315 FS., Chapter 79-202, Laws of Florida.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Veloria Kelly, Division Director, Board of Accountancy, 240 N. W. 76th Dr., Suite A, Gainesville, Florida 32607

THE FULL TEXT OF THE PROPOSED RULES IS:

61H1-22.0081 Standards for Florida Single Audit Act Audits for Nonprofit and For-Profit Organizations. Licensees performing accounting services in connection with Standards for Florida Single Audit Act Audits for Nonprofit and For-Profit Organizations required by Section 215.97, Florida Statutes to be filed with the Auditor General of the State of Florida shall comply with the standards set forth in Chapter 10.650, Rules of the Auditor General of the State of Florida. Departures from such standards must be justified by those who do not follow them.

Specific Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History—New \_\_\_\_\_.

61H1-22.0082 Standards for Audits of Certain Nonprofit Organizations.

Licenses performing accounting services in connection with Standards for Audits of Certain Nonprofit Organizations required by Sections 215.981(1), 1001.453(4), 1004.28(5), or 1004.70(6), Florida Statutes to be filed with the Auditor General of the State of Florida shall comply with the standards set forth in Chapter 10.700, Rules of the Auditor General of the State of Florida. Departures from such standards must be justified by those who do not follow them.

Specific Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History--New \_\_\_\_\_.

61H1-22.0083 Standards for Audits of District School Boards.

Licenses performing accounting services in connection with Standards for Audits of District School Boards required by Sections 11.45 or 218.39, Florida Statutes to be filed with the Auditor General of the State of Florida shall comply with the standards set forth in Chapter 10.800, Rules of the Auditor General of the State of Florida. Departures from such standards must be justified by those who do not follow them.

Specific Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History--New \_\_\_\_\_.

61H1-22.0084 Standards for Audits of Charter Schools and Similar Entities.

Licenses performing accounting services in connection with Standards for Audits of Charter Schools and Similar Entities required by Sections 218.39 or 1002.37, Florida Statutes to be filed with the Auditor General of the State of Florida shall comply with the standards set forth in Chapter 10.850, Rules of the Auditor General of the State of Florida. Departures from such standards must be justified by those who do not follow them.

Specific Authority 473.304, 473.315 FS. Law Implemented 473.315 FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Accountancy

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Accountancy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 19, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 16, 2007

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

<b>RULE NOS.:</b>	<b>RULE TITLES:</b>
62-814.100	Intent, Findings, Basis of Standards, and Research Needs
62-814.300	General Technical Requirements
62-814.450	Electric and Magnetic Field Standards

**PURPOSE AND EFFECT:** Implementation of subsections. 403.061(30) and 403.523(10), F.S.

**SUMMARY:** The Department of Environmental Protection is authorized to regulate electric and magnetic fields (EMF) from transmission lines as indicated in Florida Statute 403.061(30). The rule implementing the statute is outdated and requires updates in the following three areas, addressed in this proposed rule: (1) The elimination of a rule exemption for a specific transmission line which was never actually constructed; (2) The inclusion of standards for transmission lines with voltages above 500,000 volts; and (3) The elimination of an annual review and report on the state of science with respect to electromagnetic fields.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

**SPECIFIC AUTHORITY:** 403.061(7), 403.523(1) FS.

**LAW IMPLEMENTED:** 403.061(30), 403.523(14) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Mr. Mike Halpin, P.E. at (850)245-8002 or [mike.halpin@dep.state.fl.us](mailto:mike.halpin@dep.state.fl.us)

THE FULL TEXT OF THE PROPOSED RULES IS:

62-814.100 Intent, Findings, Basis of Standards, and Research Needs.

(1) No change.

(2) Findings. Based on the information available to the Department, the Department makes the following general findings:

(a) The Department has reviewed the present scientific data on the potential for health effects of electric and magnetic fields. The Department has also reviewed data on the existing or potential electric and magnetic field levels near electrical transmission and distribution lines and substations in Florida. Although there is no conclusive evidence that there is any danger or hazard to public health at the levels of existing 60 hertz electric and magnetic fields found in Florida, there is evidence of biological effects and a potential for adverse health

effects on the public. Further research is needed to determine if there are health effects and the exposure levels at which such effects may occur.

(b) With respect to 60 hertz EMF, reasonable measures include ~~urging more applied research on the potential adverse human health effects of EMF and EMF mitigation techniques; performing a comprehensive review of the state of the science and submitting annual reports to the Environmental Regulation Commission commencing in 1993; reviewing the provisions of this rule not later than July of 1994; and~~ requiring all new and modified transmission lines and substations to meet standards which are achievable through the use of available EMF reduction technology and measures, but in no case to allow any new or modified transmission line or substation, under normal conditions, to cause electric or magnetic field strengths greater than the highest operating voltage and the maximum current rating (MCR) values for existing transmission lines and substations.

(3) No change.

~~(4) Additional Research Needed. Continued research is needed on the potential adverse human health and welfare effects of 60 hertz EMF and EMF mitigation techniques because existing knowledge is inadequate to confidently conclude that no further action is needed.~~

~~(4)(5) Categories of Electrical Facilities. This chapter sets forth three categories of electrical facilities for regulation in regards to the electric and magnetic fields associated with these facilities.~~

(a) The first category is for existing electrical facilities on which construction was commenced prior to March 21, 1989, and new distribution lines. These facilities will be allowed to operate in accordance with subsection 62-814.400(2), F.A.C.

(b) The second category of electrical facilities is for those which were certified pursuant to Chapter 403, Part Two, Florida Statutes, after April 15, 1988, but before March 21, 1989. These facilities will be subject to specific standards moderated by the individual circumstances of the facility.

(c) The third category is for new transmission lines and substations the construction of which commenced after March 21, 1989.

~~(5)(6) Effect of Rule. The effect of this chapter is to establish requirements to reasonably protect the public health and welfare from electric and magnetic fields associated with electrical transmission lines, distribution lines and substations.~~

Specific Authority 403.061(7), 403.523(1) FS. Law Implemented 403.061(30), 403.523(14) FS. History—New 3-21-89, Amended 1-7-93; Formerly 17-274.100, Formerly 17-814.100, Amended.

62-814.300 General Technical Requirements.

(1) through (2) No change.

~~(3) Copies of the publications listed in subsection (2) are available for inspection at the Department's Information Center, 2600 Blair Stone Road, Tallahassee, Florida, 32399-2400.~~

Specific Authority 403.061(7), 403.523(1) FS. Law Implemented 403.061(30), 403.523(14) FS. History—New 3-21-89, Amended 1-7-93, Formerly 17-274.300, Formerly 17-814.300, Amended.

62-814.450 Electric and Magnetic Field Standards.

(1) No change.

~~(2) Transmission lines certified pursuant to Chapter 403, Part Two, Florida Statutes, after April 15, 1988, and prior to March 21, 1989.~~

~~(a) For the Lake Tarpon—Kathleen transmission line where the ROW width is 100 feet:~~

~~1. The maximum electric field at the edge of the ROW shall not exceed 1.56 kV/m and on the ROW shall not exceed 8.94 kV/m.~~

~~2. The peak daily magnetic field at the edge of the ROW shall be limited to 35 milliGauss under normal load conditions. Under load conditions in excess of 500 MW, the peak daily magnetic field shall be limited to 229 milliGauss. Load conditions in excess of 500 MW shall occur for no more than 15 hours in any given year, except for non permanent load conditions caused by malfunction or maintenance outages in the transmission grid or generation facilities within or outside of Florida. Florida Power Corporation shall report annually to the Department the amount of time during which the 500 MW normal load condition was exceeded.~~

~~(b) For the Lake Tarpon—Kathleen transmission line where the ROW width is 190 feet:~~

~~1. The maximum electric field at the edge of the ROW shall not exceed 1.90 kV/m and on the ROW shall not exceed 8.80 kV/m.~~

~~2. The peak daily magnetic field at the edge of the ROW shall be limited to 24 milliGauss under normal load conditions. Under load conditions in excess of 500 MW, the peak daily magnetic field shall be limited to 154 milliGauss. Load conditions in excess of 500 MW shall occur for no more than 15 hours in any given year, except for non permanent load conditions caused by malfunction or maintenance outages in the transmission grid or generation facilities within or outside of Florida. Florida Power Corporation shall report annually to the Department the amount of time during which the 500 MW normal load condition was exceeded.~~

~~(2)(3) New transmission lines and substations.~~

(a) The maximum electric field at the edge of the transmission line ROW containing a 500 kV nominal voltage or less transmission line or at the property boundary of a new substation containing facilities operating at these voltages shall not exceed 2.00 kV/m.

(b) The maximum electric field at the edge of the transmission line ROW for a line with a nominal voltage greater than 500 kV or at the property boundary of a new substation containing facilities operating at these voltages shall not exceed 5.50 kV/m.

(c)(b) The maximum electric field on the ROW of a 230 kV or smaller transmission line shall not exceed 8 kV/m.

(d)(e) The maximum electric field on the ROW of a 500 kV transmission line with a nominal voltage greater than 230 kV and up to 500 kV shall not exceed 10 kV/m.

(e) The maximum electric field on the ROW of a transmission line greater than 500 kV shall not exceed 15 kV/m.

(f)(d) The maximum magnetic field at the edge of a 230 kV or smaller transmission line ROW or at the property boundary of a new substation serving such lines shall not exceed 150 milliGauss.

(g)(e) The maximum magnetic field at the edge of the transmission line ROW for a transmission line with a nominal voltage greater than 230 kV and up to 500 kV 500 kV line or at the property boundary of a new substation containing facilities

operating at these voltages serving a 500 kV line shall not exceed 200 milliGauss, except for double circuit 500 kV lines to be constructed on ROWs existing on March 21, 1989, as identified below where the limit will be 250 milliGauss.

(h) The maximum magnetic field at the edge of the transmission line ROW for a transmission line with a nominal voltage greater than 500 kV or at the property boundary of a new substation containing facilities operating at these voltages shall not exceed 250 milliGauss.

(i)(f) For existing ROWs extending from the Andytown substation to the Orange River substation, Andytown substation to the Martin Generating Plant, and the Martin Generating Plant to the Midway substation, where the facility owner has acquired, prior to March 21, 1989, a ROW sufficiently wide for two or more 500 kV transmission lines and has constructed one or more 500 kV transmission lines on this ROW prior to March 21, 1989, the maximum magnetic field at the edge of the ROW or property boundary of a new or modified substation shall not exceed 250 milliGauss.

Table of New Transmission Line and Substation Standards

<u>KV Rating</u>	<u>Property Boundary of new Substation</u>	<u>Edge of Transmission Line Right-of-Way</u>	<u>On the Transmission Line Right-of-Way</u>
<u>&lt;+250 kV</u>	<u>2.00 kV/m &amp; 150 milliGauss</u>	<u>2.00 kV/m &amp; 150 milliGauss</u>	<u>8 kV/m</u>
<u>&lt;=500 kV and &gt; 230 kV</u>	<u>2.00 kV/m &amp; 200 milliGauss</u>	<u>2.00 kV/m &amp; 200 milliGauss</u>	<u>10 kV/m</u>
<u>&gt;500 kV</u>	<u>2.00 kV/m &amp; 250 milliGauss</u>	<u>2.00 kV/m &amp; 250 milliGauss</u>	<u>15 kV/m</u>

Footnote 1: Except as provided in paragraphs (2)(g) and (2)(i).

Specific Authority 403.061(7), 403.523(1) FS. Law Implemented 403.061(30), 403.523(14) FS. History—New 3-21-89, Amended 1-7-93, Formerly 17-274.450, Formerly 17-814.450, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mike Halpin

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jeremy Susac

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 12, 2007

**DEPARTMENT OF JUVENILE JUSTICE**

**Residential Services**

RULE NOS.: 63E-7.013  
63E-7.016

RULE TITLES: Safety and Security  
Program Administration

PURPOSE AND EFFECT: The rule establishes the requirements for the administration and operation of state operated and contracted residential commitment programs for juvenile offenders.

SUMMARY: The rule sections address safety and security in the physical plant, in daily operations, and in crisis situations. In addition to physical security features, key control, escape

prevention and control of contraband, the rule addresses facility staffing and supervision, offender classification, controlled observation, transportation, mail and visitation, and other aspects of a safe and secure facility environment. The rule also addresses program administration, including required reporting, the keeping of logbooks, records management, audit and review, and staff evaluation.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 985.64, 985.601(3)(a), 985.441(1)(b), 985.03(44) FS.

LAW IMPLEMENTED: 985.601(3)(a), 985.441(1)(b) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: Friday, January 4, 2008, 10:00 a.m.

PLACE: DJJ Headquarters, 2737 Centerview Drive, General Counsel’s Conference Room 3223, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Lydia Monroe, 2737 Centerview Dr., Ste. 3200, Tallahassee, FL 32399-3100, e-mail: lydia.monroe@djj.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

63E-7.013 Safety and Security.

(1) Physical Security Features. A residential commitment program shall provide physical security features as required pursuant to Chapter 985, F.S., the provider's contract with the department, if applicable, and the following provisions based on the restrictiveness level of the program:

(a) Although a low-risk program is not required to be physically secure, authorized features include delay-open door alarms, window alarms, electronic search devices, video surveillance equipment, radio or cellular phone communication devices for staff, and exterior lighting.

(b) A moderate-risk program shall be environmentally secure, staff secure, or hardware-secure with walls, fencing, or locking doors. Additionally, the following security features are authorized, but not required, for a moderate-risk program:

1. Security fencing with an inside overhang or razor wire;
2. Door locks on entry, exit, and passage doors, with a manual override capability if locks are electronic;
3. Secure windows of break-resistant or screened glass;
4. Delay open door and window alarms;
5. Camera surveillance system;
6. Secure sally port;
7. Secure pedestrian gate;
8. Exterior security lighting;
9. Electronic search equipment; and
10. Radio or cellular phone communication devices for staff.

(c) A high-risk program shall provide security features that include a minimum of 12-foot high perimeter fencing, with an inside overhang or razor wire; door locks on entry, exit and passage doors, with a manual override capability if locks are electric; secure windows of break-resistant or screened glass; and exterior security lighting. A high-risk program shall also provide radio or cellular phone communication devices for staff. Additionally, the following security features are authorized, but not required, for a high-risk program:

1. Camera surveillance system;
2. Secure sally port;
3. Secure pedestrian gate; and
4. Electronic search equipment.

(d) A maximum-risk program shall provide the following security features:

1. Perimeter security fencing of at least 12 feet in height, with an inside overhang or razor wire;

2. Door locks on entry, exit, and passage doors, with a manual override capability if locks are electronic;

3. Camera surveillance system, with inside and outside cameras and taping capability;

4. Sally port with intercom capability;

5. Secure pedestrian gate with intercom capability;

6. Secure windows that are break-resistant or screened glass;

7. Sleeping room doors that open out;

8. Exterior security lighting;

9. Electronic search equipment; and

10. Radio or cellular phone communication devices for staff.

(2) Staffing Ratios. Any low-risk residential commitment program of more than five beds, and any moderate-risk, high-risk, and maximum-risk restrictiveness level program shall provide awake staff supervision 24 hours per day.

(a) Establishment of staff-to-youth ratios for each contracted or state-operated program shall be based on the following factors:

1. Restrictiveness level of the program;
2. Special needs of the targeted population; and
3. Facility layout or physical plant design.

(b) Staff-to-youth ratios in a privately operated residential commitment program shall be provided as specified in the provider's contract with the department and shall be monitored for compliance by the residential monitor designated by the department.

(c) Staff-to-youth ratios in a state-operated program shall be specified in the department's monitoring plan for the program and shall be monitored for compliance by the residential monitor designated by the department.

(3) Supervision of Youth. All residential commitment program staff shall promote safety and security by maintaining active supervision of youth to include interacting positively with youth, engaging youth in a full schedule of constructive activities, closely observing behavior of youth and changes in behavior, and consistently applying the program's behavior management system.

(a) Program staff shall account for the whereabouts of youth under their supervision at all times.

1. Each program shall ensure that staff conduct and document resident counts minimally at the beginning of each shift, after each outdoor activity, and during any emergency situation, escape incident or riot.

2. Each program shall track daily census information to include, at a minimum, the total daily census count, new admissions, releases or direct discharges, transfers, and youth temporarily away from the program.

3. If, at any time, program staff cannot account for any youth's whereabouts or they find discrepancies between resident counts and the tracking of daily census information, the program shall reconcile immediately and take follow-up action as needed.

(b) A residential commitment program shall ensure that staff observe youth at least every ten minutes while they are in their sleeping quarters, either during sleep time or at other times, such as during an illness or room restriction. Staff shall conduct the observations in a manner to ensure the safety and security of each youth and shall document real time observations manually or electronically.

(4) Procedures. A residential commitment program shall develop and implement written facility operating procedures or protocols addressing safety and security.

(5) Safe and Secure Facility. A residential commitment program shall maintain a safe and secure physical plant, grounds and perimeter and shall:

(a) Conduct weekly security audits and safety inspections;

(b) Develop and implement corrective actions warranted as a result of safety and security deficiencies found during any internal or external review, audit, or inspection; and

(c) Verify that deficiencies are corrected as follows and existing systems are improved or new systems are instituted as needed to maintain compliance.

1. Immediate initiation of corrective actions necessary to eliminate any imminent threat to life and safety or any impending security breach; and

2. Initiation of other corrective actions needed within at least 30 days;

(6) Audio or Video Recordings. A residential commitment program that has any on-site video or audio system with recording capability shall maintain at least a 90-day history of recordings unless the equipment does not have the capacity to maintain a 90-day history, in which case the program shall maintain the recordings at least 30 days or longer if within the equipment's capacity.

(7) Classification of Youth. A residential commitment program shall establish a classification system that promotes safety and security, as well as effective delivery of treatment services, based on determination of each youth's individual needs and risk factors, that addresses, at a minimum, the following:

(a) Classification factors to minimally include the following:

1. Physical characteristics, including sex, height, weight, and general physical stature;

2. Age and maturity level;

3. Identified special needs, including mental, developmental or intellectual, and physical disabilities;

4. Seriousness of the current offense, including whether or not the offense was against person or property;

5. Prior delinquent history and background, including gang affiliation, if applicable;

6. Current or past involvement in assaultive or aggressive behavior, sexual misconduct, or demonstration of emotional disturbance; and

7. Identified or suspected risk factors, such as medical, suicide, and escape risks;

(b) Initial classification of each newly admitted youth for the purpose of assigning him or her to a living unit, sleeping room, and youth group or staff advisor;

(c) Reassessment of a youth's needs and risk factors and reclassification, if warranted, prior to considering:

1. An increase in the youth's privileges or freedom of movement;

2. The youth's participation in work projects or other activities that involve tools or instruments that may be used as potential weapons or means of escape; and

3. The youth's participation in any off-campus activity; and

(d) A continually updated, internal alert system that is easily accessible to program staff and keeps them alerted about youth who are security or safety risks, including escape risks, suicide or other mental health risks, medical risks, sexual predator risks, and other assaultive or violent behavior risks. The program shall design and implement this system to reduce risks by alerting program staff when there is a need for specific follow-up or precautionary measures or more vigilant or increased levels of observation or supervision, and by assisting staff when making treatment, safety and security decisions. Although a direct care, supervisory, or clinical staff may place a youth on alert status if he or she meets the criteria for inclusion in the program's alert system, only the following may recommend downgrading or discontinuing a youth's alert status:

1. A licensed mental health professional or mental health clinical staff person for suicide risks or other mental health alerts;

2. A medical staff person for medical alerts upon verification that the health condition or situation no longer exists; or

3. The program director, assistant program director, or on-site supervisor for security alerts.

(8) Gang Prevention and Intervention. A residential commitment program shall implement gang prevention and intervention strategies and shall assess each newly admitted youth to determine if he or she is a criminal street gang member or is affiliated with any criminal street gang. For the purpose of this rule chapter, the definitions of criminal street gang and criminal street gang member are consistent with definitions in Chapter 874, F.S. The program shall share pertinent gang-related information, as appropriate, with the Florida Department of Law Enforcement, local law enforcement, Department of Corrections, school districts, the



judiciary, and social service agencies, as well as with a youth's JPO and, if identified, his or her post-residential services counselor.

(9) Key Control. A residential commitment program shall establish a key control system that, at a minimum, addresses the following:

(a) Key assignment and usage, including restrictions on usage;

(b) Inventory and tracking of keys;

(c) Secure storage of keys not in use;

(d) Procedures addressing missing or lost keys; and

(e) Reporting and replacement of damaged keys.

(10) Contraband. A residential commitment program shall delineate items and materials considered contraband when found in the possession of youth. The program shall provide youth with the list of contraband items and materials and inform the youth of the consequences if found with contraband. The program shall establish a system to prevent the introduction of contraband and identify contraband items and materials through searches of the physical plant, facility grounds, and its youth.

(a) Before program staff conduct any strip search of a youth and, at a minimum, before staff conduct a youth's initial frisk search, staff shall prepare the youth by explaining the purpose of the search and what it entails, while assuring the youth of his or her safety. Throughout the search, staff shall avoid using unnecessary force and shall treat the youth with dignity and respect to minimize the youth's stress and embarrassment.

(b) Staff conducting a frisk search, which is conducted through the youth's clothing, shall be of the same sex as the youth being searched. A frisk search shall be conducted when a youth returns from a supervised activity away from the program, after a youth participates in vocational or work program involving the use of tools or other implements that could be used as weapons or as a means of escape, and when otherwise authorized by the program director or his or her designee for the purposes of controlling contraband or ensuring safety and security.

(c) A strip search, a visual check of a youth without clothing, shall be conducted in a private area with two staff members present, both of the same sex as the youth being searched. As an alternative when two staff of the same sex are not available, one staff of the same sex as the youth may conduct the search while a staff of the opposite sex is positioned to observe the staff person conducting the search, but cannot view the youth.

1. Low-risk. A program at this restrictiveness level may conduct a strip search of a youth only when authorized by the program director.

2. Moderate-risk, High-risk, and Maximum-risk Programs. A program at any of these restrictiveness levels shall conduct a strip search of every youth upon admission, except when a

youth is admitted from secure detention, in which case a strip search is authorized rather than required. The program shall also conduct a strip search of any youth returning from a home visit. When authorized by the program director, the program may conduct a strip search when a youth is returning from an off-campus activity, following a youth's involvement in visitation activities, or in response to a serious security breach.

(d) A cavity search that involves the examination of the youth's body cavities, with the exception of visual inspection of ears, nose and mouth, may only be conducted by trained medical personnel in an emergency room setting when authorized by the program director because it is strongly suspected that a youth has concealed contraband in a body cavity.

(e) With the exception of privileged mail to or from a youth's attorney of record, JPO, clergy, or a state or federally authorized advocate or advocacy group representative, the program shall search youths' incoming and outgoing mail, including correspondence and packages, for contraband and for any information that may threaten the security or safety of the program, including escape plans or gang-related information. During the search of incoming or outgoing mail, the youth receiving or sending the mail shall be present or, if the program conducts mail searches at a central location, a youth representative shall be present to witness the process.

(f) The program shall confiscate any contraband item or material from a youth, documenting the reason for the confiscation and the manner of disposition. The program shall include a copy of the documentation in the youth's individual management record. If a confiscated item is not illegal, the program director or his or her designee has the discretion to discard the item, return it to its original owner, mail it to the youth's home, or return it to the youth upon his or her release from the program. In all instances involving the confiscation of contraband that is illegal, the program shall submit the item to local law enforcement and file a criminal report.

(11) Visitation. A residential commitment program shall provide for visitation of youth and, at a minimum, shall address the following:

(a) Program security and the safety of youth, staff and visitors;

(b) Designated visitation schedule that is provided to each youth's parents or legal guardian and is readily available to other authorized visitors, as well as reasonable accommodations in response to a parent's or legal guardian's request for alternate visitation arrangements;

(c) Designated visitation areas and staff supervision during visitation;

(d) Identification of authorized visitors, including the youth's parents or legal guardian, the youth's spouse, the youth's attorney of record, the youth's JPO, clergy, and others at the discretion of the program director or his or her designee, excepting any co-defendant in the youth's current offense.

anyone prohibited by court order to have contact with the youth, anyone the youth is unwilling to receive as a visitor, or anyone whose presence or behavior during a prior visitation posed a safety or security threat:

(e) Verification of the identity of visitors by requiring a form of picture identification except in the case of children or siblings of the youth who are accompanied by a parent or legal guardian and authorized by the program director or his or her designee;

(f) Documentation of all visitation to include:

1. The visitor's signature, the date, and the times of entry and exit;

2. The name of any visitor denied entry and the date, time, and reason for denial;

(g) Measures to prevent the introduction of contraband into the program to include:

1. Written notification to visitors before their entry into the facility that their person and any packages may be subject to search and that possession of illegal contraband could be subject to legal action;

2. Mandatory electronic search of visitors entering high-risk and maximum-risk programs and optional electronic search of visitors entering low-risk and moderate-risk programs;

3. Frisk search of a visitor by a staff person of the same sex when probable cause exists to warrant the search;

4. Search of packages or other items for youth conducted in the presence of the visitor;

5. Prohibition of visitors bringing their personal possessions into the facility unless the program director or his or her designee makes an exception for a visitor needing a documented prescription medication or an adaptive device due to a disability;

6. Frisk search or, if authorized by the program director or his or her designee, strip search of a youth by staff prior to the youth's exit from the visitation area; and

7. Search of the visitation area by staff after all visits are concluded; and

(h) Termination of the visit if the youth or visitor violates the program rules, is loud or disorderly or visibly angry or upset, engages or attempts to engage in sexual contact or activity, is physically aggressive, or otherwise poses an unsafe situation.

(12) Tool Management. A residential commitment program shall provide a minimum ratio of one staff for every five youth (1:5) during activities involving the use of tools, except in the case of a disciplinary work project involving tools that requires a 1:3 ratio. However, when a program is designed to focus on vocational training, a provider's contract with the department or, in the case of a state-operated program, the department's monitoring plan may specify other staff-to-youth ratios when youth are using tools for vocational training purposes. Each residential commitment program shall institute

a tool management system to prevent youth from using equipment and tools as weapons or means of escape. At a minimum, tool management shall address:

(a) Procedures for issuing tools to youth and staff, including an assessment to determine a youth's risk to the public, staff, other youth and self if allowed to participate in a project or activity involving the use of tools;

(b) A frisk search and, at the program's discretion, an electronic search of any youth at the completion of each work project or activity that involves the use of tools;

(c) Tool markings or identifiers that facilitate issuance of tools and timely identification of missing tools;

(d) Tool inventories as follows:

1. Tools shall be inventoried prior to being issued for work and at the conclusion of the work activity. Staff shall report any discrepancy to the program director or his or her designee for immediate follow-up action.

2. Any tool that, in its manufactured form or due to subsequent modifications, has sharp edges or points and has a high potential to be used as a weapon to inflict serious bodily harm, shall be inventoried daily, except on days when they are not used.

3. Any tool that, in its manufactured form or due to subsequent modifications, does not have sharp edges or points shall be inventoried at least monthly.

4. If the program consistently implements a system whereby tools are securely stored in a sealed container or closet, and if the seal has not been broken at the time an inventory is being conducted, the sealed tools may be exempt from inventory.

(e) Prohibited tools to include machetes, bowie knives, or other long blade knives;

(f) Procedures that address missing tools;

(g) Internal reporting of incidents involving tools and reporting to the department's Central Communications Center as required;

(h) Secure storage of tools when not in use;

(i) Training for staff and youth on the intended and safe use of tools;

(j) Disposal and replacement of dysfunctional tools that are in an unsafe condition or disrepair; and

(k) Tool control and restrictions when a repairman or worker external to the program enters the facility or facility grounds to perform a work project that requires the use of tools. These restrictions shall limit tools to only those that are necessary, checking tools upon the worker's arrival to and exit from the program, restricting youths' access to the work area, immediate reporting of any tool the worker finds missing while on-site at the program, and follow-up action if any tool is found missing.

(13) Kitchen Utensils. A residential commitment program shall institute a system to control and inventory kitchen utensils used to prepare and serve food and eating utensils used by youth.

(14) Flammable, Poisonous and Toxic Items. A residential commitment program shall maintain strict control of flammable, poisonous, and toxic items and materials. At a minimum, the program shall:

(a) Maintain a complete inventory of all such items the program uses;

(b) Maintain a current list of facility positions, titles or functions that are authorized to handle these items;

(c) Prohibit youths' handling of these items and restrict their access to areas where the items are being used;

(d) Dispose of hazardous items and toxic substances or chemicals in accordance with Occupational Safety and Health Administration (OSHA) standards; and

(e) Maintain Material Safety Data Sheets (MSDS) on site as required by OSHA.

(15) Mechanical Restraints. When necessary and only as a last resort to maintain safety and security, the department authorizes the use of physical intervention techniques and mechanical restraints in residential commitment programs pursuant to Chapter 63H-1, F.A.C.

(16) Controlled Observation. A moderate-risk, high-risk, or maximum-risk residential commitment program may use controlled observation only when necessary and as a last resort. It is intended as an immediate, short-term, crisis management strategy for use during volatile situations in which one or more youths' sudden or unforeseen onset of behavior imminently and substantially threatens the physical safety of others and compromises security. Controlled observation is not authorized for use as punishment or discipline.

(a) The program is authorized to temporarily place an out-of-control youth in a controlled observation room only when the following three criteria are met:

1. The youth is exhibiting active aggression;

2. Continuation of the youth's acutely aggressive or violent behavior is likely to result in immediate injury or imminent harm to others or substantial damage to property; and

3. The youth is physically out-of-control, and less restrictive methods of dealing with the youth are ineffective or are unlikely to have the desired effects quickly enough to divert serious injuries, security breaches, or substantial property destruction.

(b) A supervisor or staff person at a higher level shall give prior authorization for each use of controlled observation unless the delay caused by seeking prior approval would further jeopardize the safety of others and the program's security. In this case, as soon as the youth is placed in the controlled observation room and order is re-established within

the program, staff shall obtain authorization for continued placement from a supervisor or staff person at a higher level or the youth shall be removed from the controlled observation room.

(c) Staff shall not leave a youth alone in a controlled observation room until an inspection of the room is conducted and it is deemed safe, secure, and in compliance with the following room specifications:

1. Minimum of 35 unencumbered square feet;

2. Solid core hardwood or metal door with a shatter-resistant observation window that allows for sight and sound observation;

3. Vents that are out of the reach of youth and covered with small mesh or a metal plate, with holes no more than 3/16 inch and no exposed edges;

4. Recessed light fixtures that are covered with shatter-resistant material;

5. Windows that are shatter-resistant or, if not, covered with security-rated screens or another material that prevents access to the glass;

6. No electrical outlets;

7. No electrical switches unless covered and secured; and

8. A security-rated, fire retardant plastic mattress suitable for use on the floor or on a suicide-resistant bed.

(d) Prior to placing a youth into a controlled observation room, a staff person of the same sex as the youth or a health care professional shall use the Health Status Checklist to conduct and document a visual check of the youth to determine if there are any observable injuries that would contraindicate placement. The Health Status Checklist (MHSA 008, August 2006) is incorporated into this rule and is available electronically at [http://www.djj.state.fl.us/forms/mental\\_health\\_substance\\_abuse\\_services\\_forms\\_index.html](http://www.djj.state.fl.us/forms/mental_health_substance_abuse_services_forms_index.html). If a physical injury is observed, the youth complains of injury or illness, or the youth experienced a fall, impact, or blow such that injury could reasonably be expected, a health care professional shall be immediately notified for timely assessment and treatment.

(e) Staff shall not place a youth exhibiting behaviors indicative of a mental health crisis or suicide risk in controlled observation. Additionally, if a youth in a controlled observation room begins manifesting behavior that would indicate that he or she is experiencing a mental health crisis or is a suicide risk, the youth shall immediately be removed from the room and follow-up mental health services shall be provided.

(f) Any physical restraints shall be removed after a youth is placed in a controlled observation room unless they are necessary to protect the youth from self-injury, in which case staff shall continuously monitor the youth and remove the restraints after 15 minutes of calm behavior.

(g) A staff person of the same sex shall frisk search the youth and remove any potentially dangerous or injurious items before the youth is left alone in a controlled observation room.

Staff shall remove all jewelry, pocket items, hair ties, hairpins, belts, or other clothing or items that the youth could use for self-injury or injury to others; however, the youth shall not be stripped.

(h) Staff shall discuss with the youth the reasons for his or her placement in controlled observation, the expected behavior for removal from placement and, if applicable, the expected behavior for removal of restraints. Later, when the youth's behavior has de-escalated and is conducive to constructive interaction, staff shall attempt to process with the youth what happened and explore alternative behaviors.

(i) To ensure the youth's safety while in the controlled observation room, staff shall conduct safety checks at least every fifteen minutes and shall observe the youth's behavior. However, continuous sight and sound supervision, defined as staff's provision of continuous, uninterrupted visual and sound monitoring of the youth, shall be provided when the youth is in restraints or is physically out-of-control to the extent that he or she is at high risk of self-injury. Staff shall document all safety checks and observations on the Controlled Observation Safety Checks form.

(j) The program director or a supervisor with delegated authority shall approve a youth's release from controlled observation. This approval shall be based on a determination that the youth is no longer threatening harm to others, exhibits calm behavior, and expresses a willingness to positively rejoin the program.

1. The time limit for placement of a youth in the controlled observation room is two hours unless the program director or his designee grants an extension because release of the youth would imminently threaten his or her safety or the safety of others. No extension shall exceed six hours, and the total placement time, including all extensions, shall not exceed 24 hours.

2. When a youth is released from controlled observation, staff shall determine whether an in-house alert is warranted and, if so, take action as required pursuant to paragraph 63E-7.013(7)(d), F.A.C.

(k) The program director or assistant program director shall review the Controlled Observation Report within 14 days of the youth's release from controlled observation to determine if the placement was warranted and handled according to the provisions of this rule section. Any corrective actions deemed necessary to prevent potential misuse of controlled observation shall be immediately implemented.

(l) The program shall ensure completion of the Controlled Observation Report for each use of controlled observation, with the exception of the Extension of Controlled Observation section when a youth's placement is limited to the two-hour time period. Additionally, for each use of controlled observation, the program shall ensure completion of the Health Status Checklist and the Controlled Observation Safety Checks

form. The program shall maintain these forms in an administrative file, as well as in the youth's individual management record.

(17) Escapes. For purposes of this rule, the definition of escape is consistent with Section 985.721, F.S.

(a) When a youth escapes from the facility or escapes from supervised activities away from the facility or while in transit to and from such activities, the program shall report the incident by telephone to law enforcement and the department's Central Communications Center immediately or within a timeframe not to exceed two hours of becoming aware of the escape. Additionally, the program shall telefax the completed Notification of Escape form to the following persons or entities as soon as practicable or within a timeframe not to exceed four hours:

1. Law enforcement;

2. The state attorney in the jurisdiction where the delinquency petition was filed;

3. The sentencing judge;

4. The department's residential regional director or designee;

5. The youth's JPO or his or her supervisor;

6. The youth's parents or legal guardian; and

7. Detention screening.

(b) The program shall maintain a separate log that documents each notification, including each person contacted, the date and time of contact, and the program staff making the contact. In addition, all pertinent information relating to the escape shall be documented in the program's daily logbook and the youth's individual management record.

(c) If law enforcement declines to accept a report alleging that a youth has committed the felony offense of escape, the program shall notify the youth's JPO or his or her supervisor who will request the court of jurisdiction to issue an order to take the youth into custody.

(d) If the youth is not apprehended within 48 hours of the escape, the program shall release the youth from the program in the department's JJIS Bed Management System or, if the program does not have direct access to JJIS, shall notify the department's regional commitment manager via telephone.

(e) As soon as possible after the program becomes aware of the youth's apprehension, the program shall advise all parties whom they previously notified of the escape.

(f) The program shall review circumstances pertinent to an escape within 48 hours, cooperate with the department in any review or investigatory activities following an escape, and implement corrective actions as needed to prevent future escapes.

(g) If a youth absconds while on temporary release status and does not return to the program as expected, the program shall contact:

1. The youth's family within four hours of becoming aware of the event to request their assistance in facilitating the youth's return to the program; and

2. The youth's JPO or his or her supervisor to request their assistance in facilitating the youth's return or to expedite issuance of a pick-up order. The program shall make this contact as soon as is practicable, but no later than the end of the same workday in which the program becomes aware of the event if it falls within the traditional workweek or, if not, before the end of the next traditional workday.

(18) Transportation. When transporting a youth, a residential commitment program shall maintain custody and control while ensuring the safety of youth, staff and the community.

(a) The program shall comply with the following provisions whether or not secure transportation is required:

1. Program staff shall not transport youth in any personal vehicle unless the program director approves such action based on extenuating circumstances wherein the life or safety of a youth is in imminent jeopardy without taking such action.

2. The program shall provide the minimum ratio of one staff for every five youth required for off-campus activities.

3. Youth and staff shall wear seat belts during transportation, and youth shall not be attached to any part of the vehicle by any means other than the proper use of a seat belt.

4. The program shall issue transporters a cellular phone or radio for use in the event of vehicle problems or other emergencies.

5. Staff shall not leave youth unsupervised in a vehicle.

6. Youth shall not be permitted to drive program or staff vehicles.

7. Staff shall lock personal and program vehicles when not in use.

(b) When transporting youth, a high-risk or maximum-risk program shall provide secure transportation. A low-risk or moderate-risk program shall provide secure transportation for any youth who has been assessed and determined to be a security risk or risk to self and others and has demonstrated that he or she cannot be transported by less restrictive methods. The program shall comply with the following when securely transporting youth:

1. The use of mechanical restraints is required and shall be provided pursuant to Chapter 63H-1, F.A.C.

2. In addition to the requirements specified in paragraph 63E-7.013(18)(a), F.A.C., of this rule chapter, the program shall comply with the following provisions when providing secure transportation:

a. The vehicle shall have rear doors that cannot be opened from the inside.

b. The vehicle shall be equipped with a safety screen separating the front seat or driver's compartment from the back seat or rear passengers' compartment, or a staff person shall occupy the back seat or rear passengers' compartment with the youth.

c. The program shall provide the minimum ratio of one staff for every five youth required for off-campus activities. However, if five or less youth are being transported, the program shall provide a minimum of two staff, with one being the same sex as the youth being transported.

(c) The program shall ensure that any vehicle used by the program to transport youth is properly maintained for safe operation.

1. Each vehicle being used for transport of youth shall pass an annual safety inspection.

2. The program shall maintain documentation on use of each vehicle and its maintenance.

3. Each vehicle used to transport youth shall be equipped with the appropriate number of seat belts, a seat belt cutter, a window punch, a fire extinguisher, and an approved first aid kit.

(19) A residential commitment program shall comply with the following provisions on youth's eligibility and participation in off-campus activities, defined as activities conducted away from the facility grounds:

(a) A residential commitment program shall provide supervision for youth who leave the facility grounds for necessary activities such as health and court-related events. The program shall determine a youth's eligibility for participation in other off-campus activities based on the program's restrictiveness level, the youth's performance and behavior in the program, and the assessed risk for the youth to re-offend during the off-site activity.

1. A low-risk or moderate-risk program shall allow a youth to participate in necessary, supervised off-campus activities such as health and court related activities. The program may also allow a youth to participate in other constructive supervised off-campus activities and, with court approval, may permit the youth to participate in specific temporary release activities, such as community employment and, during the final 90 days of his or her residential placement, home visits. If an extraordinary family emergency arises prior to the final 90 days of a youth's stay, the program director or designee may, with court approval, grant an emergency temporary release. In such a case, the program shall, with input from the youth's family, develop a specific itinerary and coordinate with the youth's JPO.

2. For most of a youth's placement in a high-risk program, the program shall restrict a youth's participation in off-campus activities to necessary, supervised activities such as health and court-related activities. However, during the final 60 days of a youth's residential stay and with court approval, the program may grant permission for the youth to leave facility grounds to

engage in transitional activities such as enrollment in school or a vocational program, completion of a job interview, performance of community service, and home visits of no more than 72 hours. Additionally, if an extraordinary family emergency arises, such as the death or impending death of a youth's immediate family member, prior to the final 60 days of a youth's stay, the program director or designee may, with court approval and concurrence of the department's residential regional director, grant an emergency temporary release. In such a case, the program shall, with input from the youth's family, develop a specific itinerary and coordinate with the youth's JPO.

3. A maximum-risk program shall not allow a youth to participate in off-campus activities except for necessary, supervised activities such as health and court-related events and, under exceptional circumstances, a staff-supervised day trip to attend a family emergency event when approved by the court and the department's residential regional director.

(b) Prior to allowing a youth to participate in any off-campus activity that is not a supervised, necessary event, the program shall assess the youth's risk and determine that he or she is unlikely to re-offend while in the community. Additionally, the program shall require the youth to demonstrate progress and positive behavior in the program.

(c) Except for supervised, necessary off-campus activities, the program shall plan and structure each off-campus activity, including any home visit, for youth to accomplish specific goals and objectives. The program shall involve the youth in the planning process.

(d) The program shall ensure a minimum ratio of one staff to every five youth during any supervised off-campus activity. The program shall provide a more intensive staffing if the activity or circumstances surrounding the activity dictate that closer supervision is necessary to ensure the safety of the community, staff and youth.

(e) Pursuant to subparagraph 64E-7.012(2)(a)2., F.A.C., of this rule chapter, the program shall notify the victim or his or her designee, unless these notification rights have been waived, when allowing a youth committed for specified offenses to participate in a temporary release.

(f) The program shall prohibit any youth from participating in trips or functions requiring travel out of the state of Florida unless approved in writing by the department's residential regional director and Assistant Secretary for Residential and Correctional Facilities.

(20) Disaster and Continuity of Operations Planning. A residential commitment program shall develop a disaster plan and a continuity of operations plan (COOP) that are coordinated or one comprehensive plan that incorporates both. The plans shall provide for the continuation of basic care and custody of youth in the event of an emergency or disaster, while ensuring safety of staff, youth and the public. The

program shall conduct practice events or drills and shall be prepared for immediate implementation or mobilization of the plans whenever an emergency or disaster situation necessitates.

(a) The program's disaster plan shall:

1. Address, at a minimum, fire and fire prevention and evacuation, severe weather, disturbances or riots, bomb threats, hostage situations, chemical spills, flooding or terrorist threats or acts;

2. Identify and define essential or key staffs' roles and specific responsibilities during emergency or disaster situations;

3. Specify and plan for the provision of any equipment and supplies required to maintain the continuous operation of services during an emergency or disaster. Equipment and supplies may include, but are not limited to, food, medications, pharmaceutical and first aid supplies, clothing and linens, vehicles, generators, cell phones, flashlights, batteries, fire safety equipment, and laptop computers;

4. Identify critical information about youth that may be needed during an emergency situation and plan for its access;

5. Address alternative housing plans;

6. Be compatible with the disaster plan and COOP for the department's residential region;

7. Be conspicuously posted in the facility, readily available to staff members, youth, and visitors, and disseminated to appropriate local authorities. If the plan is too voluminous to post, the program shall post a notice that identifies the various locations within the facility where staff can easily access the plan.

(b) The program's COOP shall:

1. Provide for the continuity of care and custody of its youth and the protection of the public in the event of an emergency that prevents occupancy of the program's primary facility or structure;

2. Compatible with the COOP for the department's residential region;

3. Readily available to staff;

4. Reviewed and updated annually;

5. Submitted to the department's residential regional director, if requested; and

6. Approved by the Division of Emergency Management, Department of Community Affairs.

(21) Internet Access. A residential commitment program shall ensure that youth only have access to the Internet for the purposes of obtaining educational material. While youth are on-line, program staff shall continually monitor the computer screens to ensure that youth are accessing only the approved material.

(a) Youth shall be prohibited from accessing material considered harmful to minors which includes any picture, image, graphic image file, or other visual depiction that, taken as a whole and with respect to minors:

1. Appeals to a prurient interest in nudity, sex, or excretion;

2. Depicts, describes, or represents in an offensive way an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or lewd exhibition of the genitals; and

3. Lacks serious literary, artistic, political, or scientific value.

(b) The program shall implement effective technology protection measures to limit youths' Internet access to only the approved educational material. The program shall conduct and document monthly checks on the protection system and, if problems are identified with the system, shall prohibit youths' access until repairs are completed and tested. The program shall not allow youth access to prohibited sites that may elude the technology protection measures.

(22) Water Safety.

(a) A residential commitment program that allows youth to participate in water-related activities shall establish a water safety plan that addresses, at a minimum, safety issues, emergency procedures, and the rules to be followed during a water-related activity, as follows:

1. Determination of the risk level for each youth to participate in water-related activities by identifying whether or not the youth can swim, assessing his or her swimming ability, and considering other factors to include, at a minimum, age and maturity, special needs such as physical and mental health issues, and physical stature and conditioning;

2. Type of water in which the activity is taking place, such as pool or open water;

3. Water conditions, such as clarity and turbulence, and bottom conditions;

4. Type of water activities such as swimming, boating, canoeing, rafting, snorkeling, scuba diving, and shoreline and offshore activities to include fishing from a bank or pier, fishing while wading, or picnicking close to a body of water;

5. Lifeguard-to-youth ratio and positioning of lifeguards;

6. Other staff supervision; and

7. Safety equipment needed for the activity, such as personal flotation devices when youth are in a boat, canoe or raft and availability of a lifeline during shoreline and offshore activities.

(b) The program shall provide sufficient supervision to continuously account for youth and ensure their safety.

1. The program shall ensure a sufficient number of lifeguards for maximum safety, and lifeguards shall be certified consistent with American Red Cross or other nationally accepted standards for the type of water in which the activity is taking place.

a. If the water-related activity takes place in a pool, at least one staff person certified as a lifeguard shall be present.

b. If the water-related activity takes place in open water, at least one staff person certified in waterfront lifeguarding shall be present.

c. Shoreline and offshore activities do not require lifeguards present; however, the program shall provide supervision by staff trained in emergency procedures. Staffing shall be sufficient to continually account for youths' whereabouts and maintain safety.

2. The program shall provide additional staff supervision to ensure youths' safety. If the activity is conducted away from the program or its grounds, a minimum ratio of one staff for every five youth is required.

3. The program shall conduct methods necessary to maintain an accounting of youth, including conducting head-counts at regular intervals.

(c) Scuba diving or snorkeling activities shall be conducted consistent with standards and procedures established or approved by nationally recognized organizations such as the Recreational Scuba Training Council, the National Association of Underwater Instructors, or the Professional Association of Diving Instructors.

Specific Authority 985.64, 985.601(3)(a), 985.441(1)(b), 985.03(44), FS. Law Implemented 985.601(3)(a), 985.441(1)(b) FS. History—New \_\_\_\_\_.

63E-7.016 Program Administration.

(1) A residential commitment program director shall be accountable for the daily operation of the program, as well as ongoing program planning and evaluation to ensure safety, security, and effectiveness of services provided to youth.

(2) A residential commitment program's mission statement shall be consistent with the department's mission and principles of the restorative justice philosophy.

(3) A residential commitment program's written description shall, at a minimum, address the following:

(a) The program's treatment approach;

(b) Services the program provides; and

(c) The program's service delivery system.

(4) A residential commitment program director shall ensure provisions for staffing that, at a minimum, address the following:

(a) Level 2 pre-employment screening requirements pursuant to Chapter 435 and Section 985.644(5), F.S.;

(b) Maintenance of an organizational chart that reflects spans of control and lines of authority and specifies the job title, and the primary function if not inherent in the job title, of each program staff and overlay service provider;

(c) Staffing schedules that ensure coverage across shifts and a system for accessing additional staff coverage as needed;

(d) Position descriptions that specify required qualifications, job functions or duties, and performance standards;

(e) A system for evaluating staff at least annually based on established performance standards;

(f) Systems of communication to keep staff informed and give them opportunities for providing input and feedback pertaining to operation of the program;

(g) A dress code for staff that promotes professionalism, safety, and positive role modeling for youth; and

(h) A code of conduct for staff that clearly communicates expectations for ethical and professional behavior, including the expectation for staff to interact with youth in a manner that promotes their emotional and physical safety;

(5) A residential commitment program shall establish a system for fiscal management and control and, in the case of any contracted program, shall obtain at least one independent financial audit annually;

(6) A residential commitment program shall report as follows:

(a) Incident reporting to the department's Central Communications Center;

(b) Reporting of Protective Action Response (PAR) incidents or use of mechanical restraints pursuant to Chapter 63H-1, F.A.C.;

(c) Reporting required for state-operated programs and programs operated by nonprofit contracted providers to participate in the USDA National School Lunch and Breakfast Program; and

(d) Posting of abuse reporting phone numbers throughout the facility and unhindered access for staff and youth to report abuse to the Department of Children and Families' central abuse hotline addressed in Chapter 39, F.S., or if the allegedly abused youth is 18 years or older, the department's Central Communication Center. For purposes of this rule, unhindered access means the program shall allow youth and staff to make the decision to report allegations of abuse without obtaining permission. The program shall provide youth with timely telephone access to report allegations of abuse. However, if the youth requests telephone access during a scheduled structured activity, the program shall provide access as soon as that activity concludes.

(7) A residential program director shall establish a system to monitor the program's bed capacity and the length of stay of youth in placement to ensure all youth are progressing through the program and to target potential problems with any youth's planned release.

(8) A residential commitment program shall update information in the department's Juvenile Justice Information System (JJIS) as follows:

(a) Updates to the Bed Management System to include:

1. Any youth admission, transfer, release or discharge within 24 hours of the event; and

2. Placement of any youth on inactive status within 48 hours of an escape or admission to a juvenile detention center or jail; and

(b) Updates in the Residential Services Monitoring System (RSMS), a web-based component of JJIS and software application designed to store information pertaining to each residential commitment program's performance that, in the case of a contracted program, reflects the program's compliance with their contract terms and conditions.

(9) A residential program shall notify the department's designated regional commitment manager if a youth is placed in a medical or mental health facility for longer than five days.

(10) A residential program shall be reviewed, audited, or investigated as follows:

(a) Prior to a contracted provider opening a new program or assuming operation of an existing program, the department may conduct a pre-operational review to assess the program's readiness to commence operations. The program shall develop and implement an outcome-based corrective action plan to address deficiencies identified during a pre-operational review. After the program commences operations and as follow-up to the pre-operational review, the department may conduct a post-operational review that may result in additional corrective actions.

(b) Based on the program's identified risk factors, the department's designated regional residential monitor shall conduct monthly, quarterly, or semi-annual reviews to determine if the program is providing services as specified in this rule chapter, other applicable rules and statutes, and the provider's contract with the department. The program shall develop and implement an outcome-based corrective action plan to address major deficiencies identified by the residential monitor during any such review. For purposes of this rule chapter, a major deficiency is defined as a deficiency that indicates the interruption of service delivery or the receipt of public funds for program services not delivered.

(c) Pursuant to Section 985.632, F.S., the department shall conduct quality assurance reviews of residential commitment programs. Standards and indicators used for this purpose shall be based on provisions of this rule chapter. The program shall implement an outcome-based corrective action plan that addresses major deficiencies identified during any quality assurance review.

(d) The program shall cooperate with any review or investigation coordinated or conducted by the department's Office of the Inspector General pursuant to Section 20.055, F.S.

(e) In cases where federal funds are involved, audits may be conducted according to federal requirements.

(11) A residential commitment program director shall build partnerships and collaborate with juvenile justice stakeholders in the community.

(a) The program shall establish a community support group or advisory board that meets at least quarterly. The program director shall solicit active involvement of interested community partners including, but not limited to



representatives from law enforcement, the judiciary, the school board or district, the business community, and the faith community. In addition, the program director shall recruit a victim, victim advocate, or other victim services community representative and a parent whose child was previously, rather than currently, involved in the juvenile justice system.

(b) The program shall collaborate with the school district to ensure the delivery of quality educational services consistent with the cooperative agreement between the school district and the department pursuant to Section 1003.52, F.S.

(c) A residential commitment program may involve community volunteers, including mentors for youth, consistent with background screening requirements pursuant to Section 985.644, F.S. The program shall provide supervision as deemed necessary to ensure the volunteer is providing services in a manner that meets the expectations of the program and ensures the emotional and physical safety of its youth.

(12) A residential commitment program shall maintain a chronological record of events as they occur or, if an event disrupts the safety and security of the program, as soon as is practicable after order has been restored.

(a) The program shall document the following events, incidents and activities in a central logbook maintained at master control, living unit logbooks, or both.

1. Emergency situations;

2. Incidents, including the use of mechanical restraints;

3. Special instructions for supervision and monitoring of youth;

4. Population counts at the beginning and end of each shift and any other population counts conducted during a shift;

5. Perimeter security checks and other security checks conducted by direct care staff;

6. Transports away from the facility, including the names of staff and youth involved and the destination;

7. Requests by law enforcement to access any youth;

8. Removal of any youth from the mainstream population, such as when a youth is placed on room restriction or controlled observation.

9. Admissions and releases, including the name, date and time of anticipated arrival or departure, and mode of transportation; and

10. Information relating to escape or attempted escape incidents.

(b) Each logbook shall be a bound book with numbered pages. Every entry in a logbook shall be considered a permanent record; therefore, under no circumstances shall any logbook entry be obliterated or removed. An error in an entry shall be struck through with a single line and initialed by the person correcting the error.

(c) At a minimum, each logbook entry shall include the date and time of the event, the names of staff and youth involved, a brief description of the event, the name and signature of the person making the entry, and the date and time of the entry.

(d) The program shall use one of the following methods to ensure that each direct care staff person, including each supervisor, is briefed when coming on duty:

1. Living Unit Logbook Review. If the program maintains a logbook at each living unit, each incoming staff shall review entries made during the previous two shifts in the logbook maintained in the living unit to which he or she is assigned. The staff shall document his or her review in the logbook, including the date, time and signature.

2. Shift Report Review. If the program does not maintain a logbook at each living unit, the program shall summarize in a shift report the events, incidents, and activities documented in the program's central logbook as required pursuant to subparagraphs 63E-7.016(12)(a)1.-10., F.A.C. A program supervisor shall verbally brief incoming staff about the contents of the shift report or incoming staff shall review the shift report. Each incoming staff shall sign and date the shift report for the previous shift to document that he or she has reviewed or been verbally briefed about its contents. A copy of the shift report shall be maintained at each living unit for at least 48 hours.

(13) A residential commitment program shall establish a records management system that addresses all records maintained by the program including, but not limited to, administrative files, personnel records, fiscal and accounting records, property inventories, and records pertaining to youth.

(a) The program shall maintain an official youth case record for each youth that is comprised of two separate files as follows:

1. An individual healthcare record that contains the youth's medical, mental health, and substance abuse related information; and

2. An individual management record that contains other pertinent information about the youth. The record's file tab shall provide the youth's legal name, DJJ identification number, date of birth, county of residence, and committing offense. The youth's JJIS face sheet and any JJIS special alerts shall be attached or filed in close proximity to the file tab. An individual management record shall be organized in the following separate sections:

a. Legal Information;

b. Demographic and Chronological Information;

c. Correspondence;

d. Case Management and Treatment Team Activities; and

e. Miscellaneous.

(b) The program shall clearly label each official youth case record, individual management record, and individual management record as confidential. All official youth case

records shall be secured in a locked file cabinet or a locked room. The program shall clearly identify any file cabinet used to store official youth case records as confidential.

(c) Each residential commitment program shall comply with the records and confidential information provisions pursuant to Section 985.04, F.S.

(d) The program shall transfer youth records when a youth is released, discharged, transferred to another residential commitment program, or placed in a juvenile detention center. Transfer of youth records shall be handled as follows:

1. Within five working days of a youth's release or discharge, the program shall transfer the complete official youth case record to the departmental staff or contracted provider assigned to provide the youth's post-residential services. The program shall transfer the original record unless, due to federal auditing requirements, the program is required to retain any original documents. In this case, the program shall replace the originals required on site with complete copies.

2. The program shall ensure that the complete official youth case record accompanies a youth transferred to another residential commitment program. The transferring program shall send the original record unless, due to federal auditing requirements, the program is required to retain any original documents. In this case, the program shall replace the originals required on site with complete copies.

3. If a youth residing in a residential commitment program is placed in a juvenile detention center, the program shall ensure that the youth's complete individual healthcare record, either the original record or a copy, accompanies the youth when transported. If the youth is subsequently returned to the residential program, the detention center shall return the complete record at the time the youth is transported back to the program.

(14) A residential commitment program shall maintain confidentiality and not release any information to the general public about any youth. The program shall not allow the media to visit, interview youth or have access to youth records unless the Secretary or his or her designee grants approval. When seeking approval for a media request, the program director or designee shall immediately contact the department's regional residential director or designee who shall process the request within the department and provide feedback to the program director or designee as soon thereafter as is practicable.

(15) A residential commitment program director shall immediately contact the department's regional residential director or designee to report the death of any youth residing in the program. The program director shall provide information as needed to enable the department to notify the youth's parents or legal guardian.

Specific Authority 985.64, 985.601(3)(a) FS. Law Implemented 985.601(3)(a) FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Pamela Brantley, Residential Services, Policy Development and Planning

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rex Uberman, Assistant Secretary for Residential Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 26, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 5, 2007

**DEPARTMENT OF HEALTH**

**Board of Chiropractic**

RULE NO.: 64B2-18.008  
 RULE TITLE: Delegation of Professional Responsibilities

PURPOSE AND EFFECT: The purpose and effect of this new rule is to establish requirements governing the delegation of professional responsibilities by chiropractic physicians.

SUMMARY: Requirements governing the delegation of professional responsibilities by chiropractic physicians are established.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 460.413(1)(u), 460.405, 460.4165(12) FS.

LAW IMPLEMENTED: 460.413(1)(u), 460.4165(2),(10),(12), 460.4166(2) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Chiropractic Medicine, 4052 Bald Cypress Way, Bin C07, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B2-18.008 Delegation of Professional Responsibilities. Before delegating professional responsibilities to any person, a chiropractic physician shall provide on-the-job training or instruction for all services, modalities or procedures to be performed unless the person to whom the delegation is being made provides documentation of previously acquired competency. At a minimum, on-the-job training shall include step by step instruction or demonstration of each and every service, procedure, modality or machine until competency is

established. The chiropractic physician shall maintain responsibility for all services performed pursuant to the delegation.

Specific Authority 460.413(1)(u), 460.405, 460.4165(12) FS. Law Implemented 460.413(1)(u), 460.4165(2),(10),(12), 460.4166(2) FS. History-New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Chiropractic Medicine  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Chiropractic Medicine  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 2, 2007  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 21, 2007

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE NOS.: 64B8-50.003  
RULE TITLES: Delegation of Powers and Duties to Electrolysis Council  
64B8-50.009 Certification of Public Records

PURPOSE AND EFFECT: The proposed rule amendments are intended to delete language in the rules which is not authorized by statute.

SUMMARY: The proposed rule amendments delete language which is not authorized by statute.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 478.43(1) FS.

LAW IMPLEMENTED: 456.025(11) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin # C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULES IS:

64B8-50.003 Delegation of Powers and Duties to Electrolysis Council.

(1) Pursuant to Section 478.43, F.S., the Board delegates to the Electrolysis Council the following powers and duties.

(a) Certification of applicants for examination and applicants for endorsement.

~~(b) Issuance of temporary permits to applicants for licensure.~~

~~(c) Certification of applicants for facility licensure.~~

~~(b)(4)~~ Approval of continuing education providers and electrolysis training programs.

(2) The Board shall enter final orders in disciplinary cases against electrologists and electrology facility license holders. The determination of probable cause to issue an administrative complaint against an electrologist or a electrology facility license holder shall be made by the Probable Cause Panel of the Board.

(3) Rulemaking proposals, petitions for declaratory statement and petitions to adopt, amend or repeal rules, which relate to the practice of electrology shall first be presented to the Council. The Council shall consider the matter and make recommendations to the Board as to the appropriate action to be taken.

Specific Authority 478.43(1) FS. Law Implemented 478.43(3) FS. History-New 5-31-93, Formerly 21M-75.003, Amended 11-16-93, Formerly 61F6-75.003, 59R-50.003, Amended \_\_\_\_\_.

64B8-50.009 Certification of Public Records.

Any person desiring certification of any Board or Council documents from the custodian of records as official public records shall submit that request along with a certification fee of \$ 25. ~~Normal duplicating fees shall also apply.~~

Specific Authority 478.43(1) FS. Law Implemented 456.025(11) ~~419.07(1)~~ FS. History-New 5-31-93, Formerly 21M-75.009, 61F6-75.009, 59R-50.009, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rules Committee, Board of Medicine

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 6, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 9, 2007

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE NOS.: 64B8-51.001  
RULE TITLES: Manner of Application  
64B8-51.003 Documentation for Licensure

PURPOSE AND EFFECT: The proposed rule amendments are intended to clarify the language with regard to application for licensure and to delete language in the rules which is not authorized by statute.

SUMMARY: The proposed rule amendments clarify language with regard to the application process and deletes language which is not authorized by statute.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 478.43(1), (4) FS.

LAW IMPLEMENTED: 478.45 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin # C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULES IS:

64B8-51.001 Manner of Application.

(1) All persons applying for licensure as an electrologist shall submit a signed application to the Executive Director of the Council on forms provided by the Council and approved and incorporated herein by reference by the Board as Form DOH/MQA/EO APP/REV-04/03, entitled "Application for Electrologist Licensure", effective 2-15-04, which can be obtained from the Council. The initial application must be accompanied by the application fee, as set forth in Rule 64B8-51.007, F.A.C.

(2) All applications must include an official transcript from a school of electrology which identifies the credits taken by home study or correspondence courses and those taken in classroom settings.

(3) All applications for licensure by examination shall be filed with the Executive Director of the Council and shall be completed at least 120 ~~90~~ days prior to the examination. Applications filed after the deadline may be considered at the next meeting of the Council.

~~(4) The application and fee may not be used for more than one year from the date of original submission of the application and fee if the application remains incomplete or the applicant has not taken at least one administration of the examination for licensure. If such application remains incomplete or the applicant has not taken at least one administration of the examination for licensure during the one year period, then the application shall be closed and the applicant shall be required to reapply for licensure.~~

~~(5) Any applicant who has not passed the state examination within three (3) administrations immediately following the date on which the Council initially approved the applicant for examination must successfully complete twenty five (25) hours of academic training and reapply for licensure.~~

Specific Authority 478.43(1), (4) FS. Law Implemented 478.45 FS. History--New 5-31-93, Formerly 21M-76.001, Amended 11-10-93, Formerly 61F6-76.001, Amended 5-29-96, Formerly 59R-51.001, Amended 12-23-97, 5-28-00, 8-9-01, 2-15-04, 10-31-05, \_\_\_\_\_.

64B8-51.003 Documentation for Licensure.

(1) In order to establish that an applicant is at least 18 years old, a copy of one of the following shall be submitted:

- (a) Birth certificate,
- (b) Passport,
- (c) Driver's license.

(2) In order to establish that an applicant has a high school diploma or a graduate equivalency diploma, a ~~notarized~~ copy of the diploma shall be submitted. An applicant from a foreign country who does not have a high school diploma or graduate equivalency diploma shall submit equivalent documentation from a credentialing agency.

Specific Authority 478.43(1), (4) FS. Law Implemented 478.45 FS. History--New 5-31-93, Formerly 21M-76.003, 61F6-76.003, Amended 7-14-96, Formerly 59R-51.003, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rules Committee, Board of Medicine

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 6, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 9, 2007

**DEPARTMENT OF HEALTH**

**Board of Nursing**

RULE NO.: RULE TITLE:

64B9-15.008 Testing and Competency Evaluation

PURPOSE AND EFFECT: The purpose and effect is to amend the rule in response to and in accordance with Department of Health Testing Services request.

SUMMARY: The rule is amended in response to and in accordance with Department of Health Testing Services request.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 464.202, 464.203 FS.

LAW IMPLEMENTED: 464.202, 464.203, 464.2085 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rick Garcia, Executive Director, Board of Nursing, 4052 Bald Cypress Way, Bin C07, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B9-15.008 Testing and Competency Evaluation.

(1) No change.

(2) The general areas of competency of the Written Exam are as follows:

(a) Role of the Nursing Assistant;

(b) Promotion of ~~Health and~~ Safety;

(c) Promotion of Function and Health of Residents;

(d) Basic Nursing Care Provided for Residents with Changes in Health Skills; and

(e) Specific Care Provided for Residents with Changes in Health Providing Specialized Care.

(3) The Board adopts a passing score as set by the National Nurse Aide Examination Council. The minimum passing level of the Written Exam varies depending on the difficulty of the items for each form of the examination and will be established by the Board.

(4) The Clinical Skills Test includes three of the following tasks in addition to hand washing and indirect care:

(a) Personal Care:

1. Perineal Care ~~Male and~~ Female;

2. through 9. No change.

10. Change Occupied Bed; and

11. Foot Care.

(b) ~~Promotion of~~ Promoting Function, Health, and Safety:

1. through 2. No change.

3. Range of Motion for Upper ~~Extremity~~ Extremities; and

4. Range of Motion for Lower ~~Extremity~~ Extremities; and

5. Ambulation.

(c) ~~Environmental Activities~~ Changing an Occupied Bed.

(c) ~~(d)~~ Reporting and Recording:

1. Measure and Record Pulse and Respirations ~~Vital Signs~~;

2. No change.

3. Measure and Record Content of Urinary Drainage Bag; and

4. Measure and Record Blood Pressure.

(5) through (6) No change.

(7) The Clinical Skills Observers for the Clinical Skills Test must meet the following criteria:

(a) No change.

(b) Have at least one year of experience in the provision of long-term care or caring for the chronically ill of any age;

(c) through (d) No change.

Specific Authority 464.202, 464.203 FS. Law Implemented 464.202, 464.203, 464.2085 FS. History—New 5-25-03, Amended 6-26-05, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Nursing

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Nursing

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 11, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 9, 2007

**DEPARTMENT OF HEALTH**

**Board of Optometry**

RULE NO.:

RULE TITLE:

64B13-3.003

Patient Records; Transfer or Death of Licensed Practitioner

PURPOSE AND EFFECT: The purpose of the amendment is to clarify that electronic signatures meet the requirements for medical records and set forth the type of electronic signatures that meet the requirements of the rule.

SUMMARY: This rule amendment clarifies that electronic signatures meet the requirements for medical records and set forth the type of electronic signatures that meet the requirements of the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 456.058, 463.005(1)(a), (d) FS.

LAW IMPLEMENTED: 456.057, 456.058, 463.005(1)(a), (d) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Optometry, 4052 Bald Cypress Way, Bin C07, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B13-3.003 Patient Records; Transfer or Death of Licensed Practitioner.

(1) The licensed practitioner must legibly sign the entry in his or her records for each patient encounter. If the practitioner maintains electronic patient records, the practitioner may affix an electronic signature which can be generated by using either public key infrastructure or signature dynamics technology, and meets the following criteria:

(a) The electronic signature is unique to the person using it;

(b) The electronic signature is capable of verification;

(c) The electronic signature is under the sole control of the person using it;

(d) The electronic signature is linked to the record in such a manner that the electronic signature is invalidated if any data in the record are changed.

(2)(4) A licensed practitioner shall maintain full and independent responsibility and control over all records relating to his or her patients and his or her optometric practice. ~~The licensed practitioner must legibly sign the entry for each patient encounter.~~ All such records shall remain confidential except as otherwise provided by law and shall be maintained by the licensed practitioner in compliance with Rule 64B13-3.001, F.A.C. For the purposes of this rule, "maintain full and independent responsibility and control" means that the records shall be maintained in the licensed practitioner's office or solely in the possession of the licensed practitioner, and that the licensed practitioner shall not share, delegate, or relinquish either possession of the records or his or her responsibility or control over those records with or to any entity which is not itself a licensed practitioner.

(2) through (7) renumbered (3) through (8) No change.

Specific Authority 456.058, 463.005(1)(a), (d) FS. Law Implemented 456.057, 456.058, 463.005(1)(a), (d) FS. History--New 11-13-79, Amended 12-19-84, 4-8-85, Formerly 21Q-3.03, Amended 12-16-86, 7-11-88, Formerly 21Q-3.003, 61F8-3.003, Amended 2-14-96, Formerly 59V-3.003, Amended 3-29-98, 4-3-00, 1-2-02, 11-16-05, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Optometry  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Optometry  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 19, 2007  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 9, 2007

**DEPARTMENT OF HEALTH**

**Board of Psychology**

RULE NO.: 64B19-18.001  
RULE TITLE: Qualifications to Evaluate and Treat Sex Offenders as a "Qualified Practitioner"

PURPOSE AND EFFECT: The Board proposes to repeal the rule due to statutory changes.

SUMMARY: The rule will be repealed due to statutory changes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 490.004(4), 947.005(9), 948.001(6) FS.

LAW IMPLEMENTED: 947.005(9), 948.001(6) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Susan Love, Executive Director, Board of Psychology, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B19-18.001 Qualifications to Evaluate and Treat Sex Offenders as a "Qualified Practitioner".

~~Prior to holding oneself out as a "Qualified Practitioner," eligible to evaluate and treat sex offenders, complete a "risk assessment" or prepare a "safety plan," as defined in Sections 947.005(9), (10), (11), and 948.001(6), (7), (8), F.S., a Florida licensed psychologist shall demonstrate specialized knowledge in the field. Specialized knowledge shall be demonstrated by completing education or training in each of the following areas:~~

~~(1) Theory and research regarding the etiology and diagnostic information regarding sexual deviance and associated conditions. Among the conditions that are the main focus of this area of practice emphasis are those such as:~~

- ~~(a) Paraphilias;~~
- ~~(b) Impulse control disorders;~~
- ~~(c) Psychopathy;~~
- ~~(d) Psychoactive substance abuse/dependence;~~
- ~~(e) General criminal behaviors; and~~
- ~~(f) Cognitive and developmental impairment of sexual offenders;~~

~~(2) Theory and research regarding evaluation, risk assessment and treatment of sex offenders;~~

~~(3) Theory and research regarding physiological measures of sexual arousal;~~

~~(4) Legal and ethical issues in the evaluation and treatment of sex offenders; and~~

~~(5) Adherence to the continuing psychological education requirements governing "Qualified Practitioners," set forth in subsection 64B19-13.003(5), F.A.C.~~

Specific Authority 490.004(4), 947.005(9), 948.001(6) FS. Law Implemented 947.005(9), 948.001(6) FS. History--New 10-23-06, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Psychology  
NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Board of Psychology  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: October 26, 2007

DATE AND TIME: January 9, 2008, 9:00 a.m.  
PLACE: Department of Health, 4042 Bald Cypress Way,  
Tallahassee, Room 301, Tallahassee, Florida  
Pursuant to the provisions of the Americans with Disabilities  
Act, any person requiring special accommodations to  
participate in this workshop/meeting is asked to advise the  
agency at least 2 days before the workshop/meeting by  
contacting: Michelle Kearney, (850)245-4240. If you are  
hearing or speech impaired, please contact the agency using the  
Florida Relay Service, 1(800)955-8771 (TDD) or  
1(800)955-8770 (Voice).  
THE PERSON TO BE CONTACTED REGARDING THE  
PROPOSED RULES IS: Michelle Kearney, (850)245-4240, or  
michelle\_kearney@doh.state.fl.us

**DEPARTMENT OF HEALTH**

**Division of Environmental Health**

RULE NOS.:	RULE TITLES:
64E-8.001	Definitions
64E-8.002	Limited Use Public Water System Construction
64E-8.003	Private and Multi-family Water System Construction
64E-8.004	Annual Operating Permits, Existing Systems, Systems Constructed on or after 1/1/93, Annual Inspections and Registrations
64E-8.005	Operation and Maintenance
64E-8.006	Water Quality Standards and Monitoring for Limited Use Public Water Systems
64E-8.007	Corrective Actions
64E-8.008	Public Notification
64E-8.009	Variances
64E-8.010	Prohibited Acts
64E-8.011	Services Provided
64E-8.012	Schedule of Fines
64E-8.013	Cross-Connection Control

THE FULL TEXT OF THE PROPOSED RULES IS:

64E-8.001 Definitions.

(1) “Abandoned ~~w~~Water ~~w~~Well” – a well the use of which has been permanently discontinued or which is in such a state of disrepair that it cannot be used for its intended purpose.

~~(2) “Alteration” – a change, addition or deletion of the water system capacity, water system storage, distribution, or water treatment equipment.~~

~~(2)(3)~~ “Construction plan” – a schematic drawing of the water system components’ arrangement and connections, which specifies each component’s model, brand, size, and capacity, and the length and size of water pipes.

~~(3)(4)~~ “Contaminant sSource” – any minor source such as abandoned water wells, flooded areas, reclaimed water distribution systems, sewage collection systems excluding plumbing, onsite sewage treatment and disposal systems, underground pollutant or petroleum storage and piping facilities or other minor sources recognized by well permitting agencies; and major sources such as animal feedlots, sewage treatment systems, sewage, septage or wastewater treatment plant residuals disposal areas, and solid waste disposal facilities.

~~(4)(5)~~ “Cross-~~c~~Connection” – any physical arrangement whereby a potable water system is connected, directly or indirectly with any other water supply system, sewer, drain, conduit, pool, storage reservoir, plumbing fixture or other device which contains or may contain contaminated water, sewage or other waste or liquid of unknown or unsafe quality which may contaminate the potable supply as a result of backflow or back siphonage. Bypass arrangements, jumper connections, removable sections, swivel or changeable devices and other temporary or permanent devices through which or because of which backflow can occur are considered to be cross-connections.

~~(6) “Culinary” – of or relating to the preparation and service of food, beverages, and dishwashing.~~

~~(7) “Dermal contact” – contact with the skin.~~

PURPOSE AND EFFECT: To revise and update technical sections, to correct errors that have resulted over time, and to clarify definitions, phrases and requirements that are difficult to understand. These changes will make the rules more easily understandable for the regulated community and regulatory officials.

SUMMARY: Revision to update and clarify definitions, fees, and standards for water system construction, well setbacks, permits, registration, testing, MCLs, and reporting.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 381.006, 403.862(1)(f) FS.

LAW IMPLEMENTED: 381.006(1), 381.0061, 381.0062, 381.0202(3), 381.0067, 403.862(1)(f) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

(5)(8) “Disinfectant” – any oxidant, for example: chlorine, chlorine dioxide, chloramine or a process applied to water, in any part of the treatment or distribution system, that is intended to kill or inactivate pathogenic organisms.

(6)(9) “Establishment” – a non-residential building or premise. This term excludes residential-based businesses where there is no public consumption, ~~or where patrons do not visit, and where provided that they are not staffed by non-resident employees work no more than as often as once per week.~~ This term also excludes non-residential locations where there is no public consumption, where patrons do not visit, and where employees work no more than once per week.

(7)(10) “Existing sSystem” – a water system that was constructed and initially placed in service prior to January 1, 1993.

(8) “Health Advisory Level” (HAL) – the maximum recommended level of a contaminant in potable water based on human health concerns, as determined by the Florida Department of Health. A list of the chemicals and their established HALs are listed in the Florida Department of Health Environmental Chemistry Analyte List, 10/30/07, available from the Department of Health, Division of Environmental Health/Water Programs at: 4052 Bald Cypress Way, Bin C22, Tallahassee, FL 32399-1742, or [www.doh.state.fl.us/environment/community/health-advisory/HAL\\_list.pdf](http://www.doh.state.fl.us/environment/community/health-advisory/HAL_list.pdf).

(9) “Limited Use Public Water System” – a public water system not covered or included in the Florida Safe Drinking Water Act. This includes but is not limited to water systems that serve the following:

(a) Two (2) or more rental residences or five (5) or more non-rental residences, but no more than fourteen (14) service connections and no more than twenty-four (24) persons;

(b) An establishment that serves any number of persons for less than sixty (60) days per year, or no more than twenty-four (24) persons for any number of days per year, or;

(c) An establishment that serves any number of persons for any number of days per year provided that the system serves no more than twenty-four (24) of the same persons for six (6) or more months per year and there is no oral consumption of the water by the transient population. Oral consumption includes but is not limited to consumption of the water through water fountains, cups, water-based beverages, dishwashing and water used in food preparation. Oral consumption does not include industrial food or beverage processing. Transient populations include but are not limited to customers, clients, flow-through traffic and church attendees.

(10) “Maximum Contaminant Level” (MCL) – the maximum permissible level of a contaminant in potable water delivered to consumers.

(11) “Modification” – a change, addition, or deletion of the water system capacity, source, pumping, storage, distribution, or treatment equipment.

(12) “Multifamily Water System” – a water system that provides piped water to three (3) or four (4) residences, one of which may be a rental residence. Examples include but are not limited to water systems that serve the following:

(a) Three (3) or four (4) owner-occupied residences.

(b) Two (2) or three (3) owner-occupied residences plus one (1) rental residence.

(c) Three (3) or four (4) residences on a property, where one (1) residence is occupied by the property owner and the remaining residences on the property are occupied by non-renting family members of the property owner.

(d) Three (3) or four (4) residences on a property, where one (1) residence is occupied by the property owner, one (1) residence is a rental residence, and the remaining residences on the property are occupied by non-renting family members of the property owner.

(13)(11) “Rental rResidence” – a structure or part of a structure that is rented for use as a home, residence, or sleeping place by one or more persons, ~~or a mobile home rented by a tenant. This term does not apply to facilities offering transient residency such as a public lodging establishment. This term applies to a residence occupied by one or more persons other than the property owner as documented on the warranty deed, regardless of the occupant’s relationship to the owner, except as described in the examples of Multifamily Water Systems in paragraphs (12)(c) and (d) above with regards to non-renting family members. This term also includes other facilities where residency or detention is incidental to the provision of employment or medical, geriatric, educational, counseling, religious, or similar services, where each bed in such facilities shall be considered a rental residence. This term does not apply to facilities offering transient residency such as a public lodging establishment.~~

(14)(12) “Repair” – replacement of the components in a potable water system with components of equivalent capacity and intended function.

(15)(13) “Sanitary sSurvey” – a combination inspection and review of the water source, potential contaminant sources, system construction and operation including monitoring compliance and consumption characteristics; and maintenance to evaluate the system’s capacity to provide potable water.

(16)(14) “Site pPlan” – a plan-view drawing, drawn to scale or with actual dimensions noted, of the subject property and the surrounding area, which locates the water source and system, existing and proposed major contaminant sources within one-thousand (1000) feet, existing and proposed minor contaminant sources within two-hundred (200) feet, the slope of land between the water and contaminant sources, and the location of existing and proposed structures on the property.

(17)(15) “Source wWater” – raw water as it enters the water system.



(18) “Supplier” – the person(s), company, corporation or entity that owns or operates a Limited Use Public Water System or Multifamily Water System.

(19)(16) “Water System” – the mechanical and electrical assembly of one or more pumps, pipes, storage structures, treatment equipment, and distribution network meant to provide water to the plumbing of a building or premise. For the purposes of this chapter rule, except as described in subsection 64E-8.007(8), F.A.C., a water system does not include the well or any connections after a the master water meter where the water is obtained from a public water system that is covered or included in the Florida Safe Drinking Water Act, the water is not treated, collected or resold after the master water meter, and the end user is not a carrier which conveys passengers in interstate commerce.

Specific Authority ~~381.0011(4),(13)~~, 381.006, ~~381.0062(1),(3)(a)~~, 403.862(1)(f) FS. Law Implemented ~~381.006(1),(2)~~, 381.0062(1)-(3), 403.862(1)(f) FS. History–New 1-1-93, Amended 8-20-96, Formerly 10D-4.024, Amended 1-26-98, 1-24-00, \_\_\_\_\_.

(Substantial rewording of Rule 64E-8.002 follows. See Florida Administrative Code for present text.)

64E-8.002 Limited Use Public Water System Construction.

No person shall construct a new water well to supply a Limited Use Public Water System unless a well construction permit has been issued by the appropriate water management district or their delegated well permitting agents, in accordance with Rule 62-532.400, F.A.C. and Chapter 40A-3, B-3, C-3, D-3, or E-3, F.A.C. All wells serving Limited Use Public Water Systems must be constructed in accordance with Rule 62-532.500, F.A.C. and Chapter 40A-3, B-3, C-3, D-3, or E-3, F.A.C.

(1) To apply for new construction or modification of a Limited Use Public Water System, an applicant must complete Form DH 4092B, Application for Limited Use and Multifamily Water System Construction Permit. Form DH 4092B, effective 9/07, is hereby adopted and incorporated by reference, and can be obtained from the Department of Health, Division of Environmental Health/Water Programs at: 4052 Bald Cypress Way, Bin C22, Tallahassee, Florida 32399-1742, at [www.doh.state.fl.us/environment/water/manual/encl1.htm](http://www.doh.state.fl.us/environment/water/manual/encl1.htm), or from the County Health Department (CHD). The applicant must submit a completed Form DH 4092B to the Department along with:

(2) Distances between contaminant sources and potable water supply wells shall be maintained as specified in subsection 62-532.400(7), F.A.C., Water Well Permitting and Construction Requirements.

(a) Two (2) copies of a site plan and two (2) copies of a construction plan. Each such plan shall be a minimum size of 8.5 x 11 inches and of sufficient clarity for reproduction.

(b) A \$90 processing fee. For newly constructed systems, this fee shall also serve as the annual operating permit fee for the first year, or portion thereof, as described in Rule 64E-8.004, F.A.C.

(a) Wells shall be located upgradient of contaminant sources, unless sanitary or safety concerns prevent this placement.

(b) Abandonment of wells is required per Rule 62-532.440, F.A.C.

(3) Water systems shall be equipped with:

(a) A conveniently accessible, non-threaded downward opening tap, located at least twelve (12) inches above grade between the source and any storage or treatment equipment.

(b) A working pressure gauge.

(c) A six (6) foot by six (6) foot by four (4) inch thick concrete apron centered around the well.

(d) An aboveground check valve between the raw water source tap and the disinfectant injection point (for systems with chemical disinfection).

(e) A well vent as described in paragraph 62-555.320(8)(c), F.A.C., for well pumps installed under a water system construction permit issued by the Department on or after the effective date of this chapter, unless the criteria for exemption listed in that section are met.

(4) Systems shall be sized and designed as follows, unless designed by a professional engineer:

(a) Calculate Peak Demand (PD) as follows:

PD = (GPD/T) x 0.1 + IF, where:

PD is Peak Demand in Gallons per minute (GPM);

GPD is projected Gallons per day from section 64E-6.008, F.A.C., Table I;

T is daily time of system operation in hours (Use sixteen (16) for limited use community systems or facilities open ten (10) or more hours per day; use eight (8) for all other facilities);

IF is the Irrigation flow factor (Use five (5) if site has lawn or landscaping; use zero (0) if site has none).

(b) Minimum storage tank size:

1. A hydropneumatic tank shall be at least ten (10) times the PD. For a flexible diaphragm or bladder tank, the amount of water delivered between pump shutdown and start shall equal or exceed the PD. Therefore:

Gross Storage Tank Volume, no disinfection = PD × 10

Drawdown Volume, bladder tank = PD

2. Beginning on the effective date of this chapter, where continuous disinfection is required for groundwater supplied systems to remove confirmed microbiological contamination, Table 1 shall be used to determine the minimum water contact time and free chlorine residual concentration needed at various water temperatures:

Table 1: Minimum Free Chlorine Residual (mg/L)

Contact Time minutes	Water Temperature <sup>1</sup>					
	36°F NA	41.0°F NA	50.0°F NA	59.0°F 2.7	68.0°F 2.0	77.0°F 1.4
15						
30	3.5	2.7	2.0	1.4	1.0	0.7
45	2.4	1.8	1.4	0.9	0.7	0.5

**Table 1 Notes:**

Above values are based on a water pH of no greater than 9.0 and a baffling factor of 0.1 (no baffling). Water temperature, pH and free chlorine residuals are based on the water exiting the contact tank.

<sup>1</sup> For initial design of disinfection systems, use the coldest anticipated water temperature exiting the contact tank.

a. Therefore, the effective water contact volume for groundwater supplied systems shall be a minimum of either fifteen (15) or thirty (30) times the PD (to achieve a minimum water contact time of either 15 or 30 minutes with the disinfectant at peak demand flow, based on Table 1 values).

b. The effective water contact volume in hydropneumatic tanks shall be no more than 50% of the gross hydropneumatic tank volume, therefore:

$$\text{Gross Hydropneumatic Tank Volume} = \text{PD} \times \text{Contact Time} / 0.5$$

c. A flexible diaphragm or bladder storage tank may not be used as a contact tank.

d. 100% of the volume of a second, airless retention tank may be considered effective volume.

e. Influent and effluent contact tank piping shall enter and exit at opposite ends of the longest tank dimension.

(c) Pump capacity shall be as large as the PD.

(d) Filtration to remove oxidation precipitates shall be required if they invalidate microbiological tests.

(e) Beginning on the effective date of this chapter, systems supplied by surface water or cisterns, and systems supplied by groundwater where continuous disinfection is required but is not designed according to Table 1 above, must be designed by a professional engineer and must include treatment designed according to Chapters 3 and 4 of the *Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems Using Surface Water Sources*, March 1991 Edition, available from the U.S. Environmental Protection Agency (EPA) at: Office of Groundwater and Drinking Water (4601), Ariel Rios Building, 1200 Pennsylvania Avenue NW, Washington, DC, 20460-0003, or [www.epa.gov/safewater/mdbp/implement.html](http://www.epa.gov/safewater/mdbp/implement.html). All such plans must be reviewed and approved by the Department's Bureau of Water Programs.

**(5) Piping:**

(a) Inside pipe diameter size requirements are as listed in Table 2, unless designed by a professional engineer:

Table 2: Minimum Water System Pipe Size

For GPM <sup>1</sup> up to:	Or length <sup>2</sup> up to:	Use pipe diameter:
6	50'	1/2"
10	100'	3/4"
15	200'	1"
25	300'	1 1/4"
35	400'	1 1/2"
60	600'	2"
90	800'	2 1/2"
125	1000'	3"

**Table 2 Notes:**

These figures prevent water velocity from exceeding six (6) feet per second, and pressure loss from exceeding twenty (20) pounds per square inch per one-hundred (100) feet of pipe at peak demand based upon Hazen & Williams friction loss tables using constant = 150.

<sup>1</sup> Use Gallons per minute flow from Peak Demand calculation in section (4) above.

<sup>2</sup> -Distribution pipe lengths shall be summed to find the length factor in column two.

(b) Potable water pipes shall be no closer than five (5) feet horizontally to building sewer pipes and effluent transmission lines of an onsite sewage treatment and disposal system (OSTDS) as defined in Rule 64E-6.002, F.A.C. This separation shall not apply where all portions of the bottom of the water pipe within five (5) feet of the sewer pipe are a minimum of twelve (12) inches above the top of the sewer pipe, or the water pipe is sealed with a waterproof sealant within a sleeve of similar or stronger material pipe to a distance of at least five (5) feet from the nearest portion of the sewer pipe.

(c) Potable water pipes shall meet all separation requirements to sanitary or storm sewers, wastewater or stormwater force mains, and reclaimed water pipelines as described in Rule 62-555.314, F.A.C.

(d) Potable water pipes shall be no closer than ten (10) feet horizontally to an OSTDS unless such water pipes are sealed with a waterproof sealant within a sleeve of similar or stronger material pipe to a distance of at least ten (10) feet from the nearest portion of the OSTDS. In no case shall the sleeved water pipe be located within twenty-four (24) inches laterally of the OSTDS. Water pipes within five (5) feet of a drainfield shall not be located at an elevation lower than the drainfield absorption surface.

(e) Both new and replacement pipes shall be no more than 8.0% lead, and new and replacement flux or solders shall be no more than 0.2% lead.

(6) All equipment shall be installed and operated in accordance with manufacturer's instructions and specifications. Only food or water-grade chemicals, equipment and materials shall be used. These items shall meet the standards of the U.S. Food and Drug Administration under Title 21 of the Code of Federal Regulations (CFR) Parts 170-199, and pertinent Federal Registers; or meet the National Sanitation Foundation/American National Standards Institute, NSF/ANSI Standard 60-2005, entitled *Drinking Water Treatment Chemicals – Health Effects*, and NSF/ANSI Standard 61-2007, entitled *Drinking Water System Components – Health Effects*, available from NSF International at P. O. Box 130140, Ann Arbor, Michigan, 48113-0140; or meet the standards of another ANSI accredited testing and certification organization.

(7) The Department shall issue a permit to construct or modify a Limited Use Public Water System provided that:

(a) All items in subsection (1) above have been submitted.

(b) All submitted plans and application materials meet the criteria listed in subsections (2) through (6) above.

(c) The Department has performed a sanitary survey and has verified that the actual site conditions are as indicated on the submitted plans and application materials and meet the criteria listed in subsection (2) above.

(8) Water system construction or modification permits are valid for eighteen (18) months. An extension of time to complete construction or modification shall be granted for a period of ninety (90) days if the Department receives a written request from the applicant prior to expiration of the construction permit and the conditions under which the original construction permit was granted have not changed.

(9) Upon completion of water system construction or modification, the applicant shall perform a water quality clearance as follows:

(a) Microbiological analysis of five (5) source water samples:

1. One (1) source water sample shall be collected per day for five (5) days within a period of twenty-three (23) consecutive days. Collection of two (2) samples per day is permitted if collected six (6) hours apart and the pump is run at rated capacity for at least fifteen (15) minutes before each collection.

2. No more than one (1) of these five (5) samples and neither of the last two of these samples shall reveal the presence of coliform bacteria.

(b) One (1) microbiological analysis of a remote distribution water sample per day for two (2) consecutive days.

(c) One (1) Lead analysis of a first draw water sample collected from an indoor tap after the water has been undisturbed in the plumbing for at least six (6) hours.

(d) One (1) Nitrate (Nitrate as N) analysis of a source water sample.

(e) Any analyses required per subsection 64E-8.006(4) or Rule 64E-8.007, F.A.C.

The results of such analyses shall not exceed the Maximum Contaminant Levels (MCL) or Health Advisory Levels (HAL) listed in subsection 64E-8.006(2), F.A.C.

(10) To obtain approval to place a new or modified Limited Use Public Water System into service, the applicant must submit a completed Form DH 4092A, Application for Limited Use Public Water System Operation, and obtain either an annual operating permit, or a Registration exemption as described in subsection 64E-8.004(5), F.A.C. Form DH 4092A, effective 9/07, is hereby adopted and incorporated by reference, and can be obtained from the Department of Health, Division of Environmental Health/Water Programs at: 4052 Bald Cypress Way, Bin C22, Tallahassee, Florida 32399-1742, at [www.doh.state.fl.us/environment/water/manual/encl1.htm](http://www.doh.state.fl.us/environment/water/manual/encl1.htm), or from the CHD.

(a) The Department shall then issue an annual operating permit or a Registration provided that:

1. The Department has inspected the system and has verified that it was constructed according to the approved plans, in compliance with this section, and meets the operating and maintenance standards of Rule 64E-8.005, F.A.C.

2. Satisfactory results of the analyses listed in subsection (9) above have been submitted.

3. A copy of the well completion report prepared per Rule 62-532.410, F.A.C., has been submitted.

(b) If deficiencies are found, written notice shall be provided to the applicant by the Department. Deficiencies shall be corrected within ninety (90) days of the expiration date of the construction or modification permit, unless a time extension is granted in writing by the Department.

(c) Re-inspection requests must be accompanied by a \$40 fee.

Specific Authority 381.0011(4,13); 381.006, 381.0062(1),(3)(a); 403.862(1)(f) FS. Law Implemented 381.0012, 381.0061, 381.0067, 381.006(1),(2), 381.0062(1)-(3), 403.862(1)(f) FS. History—New 1-1-93. Amended 8-20-96, Formerly 10D-4.025, Amended 1-26-98, 1-24-00, 11-13-00, 10-7-02, \_\_\_\_\_.

(Substantial rewording of Rule 64E-8.003 follows. See Florida Administrative Code for present text.)

64E-8.003 Private and Multi-family Water System Construction.

Any new or modified Multifamily Water System, any Multifamily Water System that was constructed and initially placed into service on or after January 1, 1993 that did not obtain construction approval from the Department at the time of construction, or any water system that was constructed and initially placed into service on or after January 1, 1993 that is now being converted into a Multifamily Water System, must obtain construction approval from the Department and is subject to the following requirements:

(1) All new potable wells serving Private or Multifamily Water Systems must be constructed in accordance with Rule 62-532.500, F.A.C. and Chapter 40A-3, B-3, C-3, D-3 or E-3, and shall be separated from major contaminant sources per subsection 64E-8.002(2), F.A.C.

(a) Multifamily Water Systems must also meet the criteria in subsections 64E-8.002(4), (5) and (6), F.A.C.

(b) Private Water Systems must also meet the criteria in paragraph 64E-8.002(5)(e) and subsection (6), F.A.C.

(2) To apply for Multifamily Water System construction or modification approval, an applicant must complete and submit Form DH 4092B, effective 9/07, to the Department along with:

(a) Two (2) copies of a site plan and two (2) copies of a construction plan. Each such plan shall be a minimum size of 8.5 x 11 inches and of sufficient clarity for reproduction.

(b) A \$75 processing fee.

(3) The Department shall issue a permit to construct or modify a Multifamily Water System provided that:

(a) All items in subsection (2) above have been submitted.

(b) All submitted plans and application materials meet the criteria listed in subsection (1) above for Multifamily Water Systems.

(c) The Department has performed a sanitary survey and has verified that the actual site conditions are as indicated on the submitted plans and application materials and meet the criteria listed in subsection (1) above for Multifamily Water Systems.

(4) Multifamily Water system construction or modification approval is valid for eighteen (18) months. An extension of time to complete construction or modification shall be granted for a period of ninety (90) days if the Department receives a written request from the applicant prior to expiration of the construction permit and the conditions under which the original construction permit was granted have not changed.

(5) Upon completion of Multifamily Water System construction, the applicant shall perform a water quality clearance as follows:

(a) One (1) microbiological analysis of a source water sample per day for two (2) consecutive days.

(b) One (1) microbiological analysis of a remote distribution water sample.

(c) One (1) Lead analysis of a first draw water sample collected from an indoor tap after the water has been undisturbed in the plumbing for at least six (6) hours.

(d) One (1) Nitrate (Nitrate as N) analysis of a source water sample.

Such analyses shall be performed in accordance with subsection 64E-8.006(1), F.A.C., and the results of such analyses shall not exceed the MCLs listed in subsection 64E-8.006(2), F.A.C.

(6) Upon request by the applicant, the Department shall inspect to determine if the Multifamily System has been constructed in compliance with the approved plans and with this section. Upon a satisfactory inspection by the Department, receipt of satisfactory results of the analyses listed in section (5) above, and receipt of a copy of the well completion report prepared per Rule 62-532.410, F.A.C., the Department shall issue written approval to operate the Multifamily Water System.

(a) If deficiencies are found, written notice shall be provided to the applicant by the Department. Deficiencies shall be corrected within ninety (90) days of the expiration date of the construction permit, unless a time extension is granted in writing by the Department.

(b) Re-inspection requests must be accompanied by a \$40 fee.

(7) An Existing water system supplied by a domestic well that was constructed and initially placed into service prior to January 1, 1993 and that is now being converted into a Multifamily Water System, must obtain approval to operate the converted Multifamily System.

(a) Such converted Multifamily Water Systems shall meet the minimum setback distances listed in subsection (1) above except that a system supplied by a well constructed prior to January 1, 1972 that is greater than or equal to fifty (50) feet from an OSTDS shall be accepted without a variance.

(b) To obtain approval to operate such a converted Multifamily Water System, an applicant must complete and submit Form DH 4092B, effective 9/07, to the Department along with:

1. A site plan of minimum size of 8.5 x 11 inches and of sufficient clarity for reproduction.

2. A \$75 processing fee.

3. Satisfactory water quality results for the analyses listed in section (5) above.

(c) Upon a satisfactory inspection by the Department that verifies compliance with the minimum setback distances listed in paragraph (7)(a) above and receipt of the items listed in paragraph (7)(b) above, the Department shall issue written approval to the supplier to operate the converted Multifamily Water System.

(d) If deficiencies are found, written notice shall be provided to the applicant by the Department. Re-inspection requests must be accompanied by a \$40 fee.

Specific Authority 403.862(1)(f), ~~381.0011(4),(13)~~, 381.006, ~~381.0062(1),(3)(a)~~ FS. Law Implemented ~~381.0012, 381.0061, 381.0067, 381.006(1),(2), 381.0062(1)-(3), 403.862(1)(f)~~ FS. History—New 1-1-93, Amended 8-20-96, Formerly 10D-4.026, Amended 1-26-98, 1-24-00, 11-13-00, 10-7-02,\_\_\_\_\_.

(Substantial rewording of Rule 64E-8.004 follows. See Florida Administrative Code for present text.)

64E-8.004 Annual Operating Permits, Existing Systems, Systems Constructed On or After 1/1/93, Annual Inspections and Registrations.

(1) Annual operating permits are required for all Limited Use Public Water Systems, except those systems Registered per section (5) below. Issuance of initial annual operating permits for modified or newly constructed and approved Limited Use Public Water Systems is described in subsection 64E-8.002(10), F.A.C. Annual operating permits are not transferable to new persons, expire on September 30 of each year, and must be renewed on an annual basis. Renewal and change of owner fees for annual operating permits are as follows:

(a) Limited use commercial water systems which serve family day care establishments as described in Chapter 65C-20, F.A.C.: Annual renewal; \$30. Change of owner between October 1 and March 31; \$30. Change of owner between April 1 and September 30; \$15.

(b) All other Limited Use Public Water Systems: Annual renewal; \$90. Change of owner between October 1 and March 31; \$90. Change of owner between April 1 and September 30; \$45.

(2) Existing Limited Use Public Water Systems that were constructed and initially placed into service prior to January 1, 1993, except those systems that obtain a Registration per subsection (5) below, must obtain an annual operating permit from the Department.

(a) To obtain an initial annual operating permit for an Existing system, the following must be submitted to the Department:

1. A completed Form DH 4092A, effective 9/07.

2. A \$90 operating permit fee if between October 1 and March 31, or \$45 operating permit fee if between April 1 and September 30. Limited use commercial water systems which serve family day care establishments as described in Chapter 65C-20, F.A.C., shall pay an operating permit fee of \$30 if between October 1 and March 31, or \$15 operating permit fee if between April 1 and September 30.

3. A site plan and a construction plan. Each such plan shall be a minimum size of 8.5 x 11 inches and of sufficient clarity for reproduction.

4. A well completion report, if available.

5. Satisfactory water quality analysis results for the following:

a. One (1) microbiological analysis of a source water sample per day for two (2) consecutive days.

b. One (1) microbiological analysis of a water sample from the distribution system.

c. One (1) Lead analysis of a first draw water sample collected from an indoor tap after the water been undisturbed in the plumbing for at least six (6) hours.

d. One (1) Nitrate (Nitrate as N) analysis of a source water sample.

e. Any satisfactory analyses required per subsection 64E-8.006(4), F.A.C.

(b) The following requirements shall apply to Existing systems:

1. Minimum setback distances listed in subsection 64E-8.002(2), F.A.C., shall be met except that a system supplied by a well constructed prior to January 1, 1972 that is greater than or equal to fifty (50) feet from an OSTDS, or a well constructed prior to January 1, 1993 that is greater than or equal to seventy-five (75) feet from an OSTDS, shall be accepted without a variance if the OSTDS is in compliance with Chapter 64E-6, F.A.C.

2. The well must meet the construction standards that were required at the time of original installation for potable wells.

3. The system must maintain a minimum water pressure of twenty (20) pounds per square inch throughout the water system at all times.

4. The system shall contain no cross-connections.

5. The system must be equipped with a raw water source tap as described in paragraph 64E-8.002(3)(a), F.A.C., or, at a minimum, an outside untreated water tap or hose bib.

6. The system must meet all other operating and maintenance standards of Rule 64E-8.005, F.A.C.

7. Existing systems supplied by surface water or cisterns must meet the design and treatment standards of section paragraph 64E-8.002(4)(e), F.A.C.

(c) Upon receipt of satisfactory items listed in paragraph (2)(a) above, and a satisfactory inspection by the Department that verifies compliance with paragraph (2)(b) above, the Department shall issue an annual operating permit to the supplier.

(d) If deficiencies are found, written notice shall be provided to the applicant by the Department. Re-inspection requests must be accompanied by a \$40 fee.

(e) An Existing water system supplied by a domestic well that was constructed and initially placed into service prior to January 1, 1993 and that is now being converted into a Limited Use Public Water System, must obtain an annual operating permit according to the same requirements for Existing systems as listed in paragraphs (2)(a) through (d) above, or a Registration exemption as described in subsection (5) below.

(3) A Limited Use Public Water System that was constructed and initially placed into service on or after January 1, 1993 that did not obtain construction approval from the Department at the time of construction, or any water system that was constructed and initially placed into service on or after January 1, 1993 that is now being converted into a Limited Use Public Water System, must obtain an annual operating permit or a Registration exemption from the Department and is subject to all construction, water quality clearance and permitting requirements for new Limited Use Public Water Systems as described in Rule 64E-8.002, F.A.C.

(4) Each year, prior to expiration and renewal of a Limited Use Public Water System's annual operating permit, the Department shall conduct an inspection of the water system and shall collect and perform one (1) microbiological analysis of a water sample from the distribution system for no additional fee. When treatment includes disinfection, one (1) microbiological source water sample shall also be collected and analyzed on the same day as the distribution water sample. The following standards shall be checked during the inspection and shall be in compliance prior to renewal of an annual operating permit:

(a) The water pressure must be a minimum of twenty (20) pounds per square inch throughout the water system at all times;

(b) The water system shall contain no cross-connections;

(c) The system must be equipped with:

1. For systems constructed after January 1, 1993: A raw water source tap as described in paragraph 64E-8.002(3)(a), F.A.C., and a structurally sound concrete apron as described in paragraph 64E-8.002(3)(c), F.A.C., or;

2. For Existing systems: A raw water source tap as described in paragraph 64E-8.002(3)(a), F.A.C., or, at a minimum, an outside untreated water tap or hose bib.

(d) All chemically disinfected systems shall have an aboveground check valve between the raw water source tap and the disinfectant injection point;

(e) Chemically disinfected systems must be in compliance with the disinfectant residual limits of paragraph 64E-8.005(1)(d), F.A.C.;

(f) The system must be in compliance with all operating and maintenance standards listed in Rule 64E-8.005, F.A.C.

(g) The system or system use has not been modified without prior approval by the Department.

(h) The supplier has submitted all required routine water quality analysis results listed in subsection 64E-8.006(3), F.A.C.

If deficiencies are found, written notice shall be provided to the supplier by the Department. All reinspections conducted by the Department to verify correction of deficiencies are subject to a reinspection fee of \$40.

(5) Suppliers of Limited Use Commercial Public Water Systems that do not make tap water available for public consumption are eligible for a Registration exemption if the system meets the water quality standards of subsection 64E-8.006(2), F.A.C., and does not require continuous disinfection to remove microbiological contamination. Registered systems are exempt from obtaining annual operating permits. If corrective treatment equipment is required to correct a chemical MCL or HAL violation, the supplier shall not be eligible for a Registration exemption and shall be required to obtain an annual operating permit, unless

the treatment equipment is actively managed and maintained by the Department of Environmental Protection's Water Supply Restoration Program.

(a) The supplier of a newly constructed and approved Limited Use Commercial Public Water System as described in subsection 64E-8.002(10), F.A.C., may apply for a Registration exemption by submitting a completed Form DH 4095, Application for Limited Use Commercial Water System Registration, along with a \$15 application fee to the Department. Form DH 4095, effective 9/07, is hereby adopted and incorporated by reference, and can be obtained from the Department of Health, Division of Environmental Health/Water Programs at: 4052 Bald Cypress Way, Bin C22, Tallahassee, Florida 32399-1742, at [www.doh.state.fl.us/environment/water/manual/encl1.htm](http://www.doh.state.fl.us/environment/water/manual/encl1.htm), or from the CHD. Upon receipt of these items and an inspection by the Department that verifies compliance with the above criteria for Registration, the Department shall issue written authorization to operate the Registered system.

(b) Eligible system owners of Existing systems may apply for a Registration exemption by submitting the following to the Department:

1. A completed Form DH 4092A, Application for Limited Use Public Water System Operation, along with a \$90 application fee. The Department shall waive this requirement upon conversion from a current annually permitted system to a Registered system.

2. A completed Form DH 4095, Application for Limited Use Commercial Water System Registration, along with a \$15 application fee.

3. A site plan and a construction plan. Each drawing shall be a minimum size of 8.5 x 11 inches and of sufficient clarity for reproduction.

4. A well completion report, if available.

5. Satisfactory water quality analysis results for the following:

a. One (1) microbiological analysis of a source water sample per day for two (2) consecutive days and one (1) microbiological analysis of a water sample from the distribution system. The Department shall waive these microbiological sampling requirements if the system classification is being changed from a current annually permitted system to a Registered system, or if the supplier is applying for re-registration due to changes in business activity or ownership per paragraph (5)(f) below, provided that all previously required microbiological sample analyses have been satisfactory for the previous calendar year and the system has not been modified without prior approval from the Department.

b. One (1) Lead analysis of a first draw water sample collected from an indoor tap after the water been undisturbed in the plumbing for at least six (6) hours, performed within the last five (5) years;

c. One (1) Nitrate (Nitrate as N) analysis of a distribution water sample, performed within the last five (5) years.

d. Any satisfactory analysis required per subsection 64E-8.006(4), F.A.C.

(c) Upon receipt of satisfactory items listed in paragraph (5)(b) above and a satisfactory inspection by the Department that verifies compliance with subparagraphs (2)(b)1. through 6. above, the Department shall issue written authorization to operate the Registered system.

(d) If deficiencies are found, written notice shall be provided to the applicant by the Department. Re-inspection requests must be accompanied by a \$40 fee.

(e) In order to retain their potable water status as is required by the Federal Occupational Health and Safety Administration under 29 CFR 1910.141 and the Florida Plumbing Code, suppliers of Registered systems as described within this section must perform annual testing for bacteria in the form of one (1) satisfactory microbiological sample per year. Such analyses shall be performed no more than twelve (12) months apart and the results shall be provided to the Department no later than fifteen (15) days after the time period in which the sample was required. If this annual testing is not performed, the Department may revoke the Registration exemption and require the supplier to either obtain an annual operating permit per subsection (1) above, or reapply for Registration by submitting the items listed in subparagraphs (5)(b)2. through 5., above.

(f) Re-registration of eligible water systems is required prior to any change in business activity or upon change of system ownership. To re-register, the supplier shall submit the items listed in subparagraphs (5)(b)1. through 5., above.

Specific Authority 403.862(1)(f), ~~381.0011(4),(13)~~, 381.006, ~~381.0062(1),(3)(a),(6)~~ FS. Law Implemented ~~381.0012, 381.0061, 381.0067, 381.006(1),(2)~~, 381.0062, 403.862(1)(f) FS. History—New 1-1-93. Amended 8-20-96, Formerly 10D-4.027, Amended 1-26-98, 1-24-00, 11-13-00, 10-7-02, \_\_\_\_\_.

64E-8.005 Operation and Maintenance.

(1) The following operating standards shall apply to ~~all~~ permitted Limited Use Public Water Systems:

(a) All components shall function properly at all times.

(b) Should the system shut down, the supplier shall take steps to restore it immediately. The supplier shall alert all users in advance of maintenance that will cause pressure loss or water quality change. The supplier shall follow the standards outlined in the *Guidelines for the Issuance of Precautionary Boil Water Notices*, 12/11/06 revision, available from the Department of Health, Division of Environmental Health/Water Programs at: 4052 Bald Cypress Way, Bin C22, Tallahassee, FL 32399-1742, or [www.doh.state.fl.us/environment/water/manual/boilnew.htm](http://www.doh.state.fl.us/environment/water/manual/boilnew.htm).

(c) The supplier shall alert the ~~CHD county health department~~ twenty-four (24) hours in advance where possible, but no later than the next business day after any shutdown or treatment failure, or within twenty-four (24) hours after discovering sabotage or vandalism to the water system.

(d) Where continuous disinfection is required to remove confirmed microbiological contamination, ~~d~~Disinfection equipment shall maintain the a free available chlorine residual and total chlorine residual between 0.2 milligrams per liter (mg/L) and 4.0 mg/L ~~free available chlorine residual or 5.0 mg/L total chlorine residual~~ throughout the entire system, or the equivalent of these limits as determined by the ~~D~~Department. ~~A functional disinfectant concentration test kit shall be kept on site at all times.~~

1. Where continuous disinfection is required, the supplier shall test the chlorine residual daily by using a N, N-Diethyl-p-Phenylenediamine (DPD) color comparison test kit, or a portable spectrophotometer test kit and post the results in a log kept on premises. The test kit shall be functional and kept on site at all times. The ~~D~~Department shall specify tests for alternative disinfectants upon construction approval.

2. Where continuous disinfection is required for a Limited Use Community System and a chemical disinfectant is used, the supplier shall assure a state certified water treatment plant operator services the system weekly.

3. Where continuous disinfection was initially required prior to the effective date of this chapter, the effective water contact volume for groundwater supplied systems shall be 15 times the PD, and the effective water contact volume for surface water supplied systems shall be 120 times the PD (in order to achieve a minimum water contact time of 15 or 120 minutes, respectively, with the disinfectant at peak demand flow).

4. Where continuous disinfection was initially required for a groundwater supplied system on or after the effective date of this chapter, the system must maintain the minimum required water contact time and free chlorine residual based on the water temperature exiting the contact tank according to Table 1, or designed in accordance with Chapters 3 and 4 of the U.S. EPA *Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems Using Surface Water Sources*, March 1991 Edition.

5. Where disinfection equipment is installed on a Limited Use Public Water System but is not required, the free available chlorine residual and total chlorine residual shall not exceed 4.0 mg/L throughout the entire system.

(e) The system shall maintain a minimum water pressure of twenty (20) pounds per square inch throughout the water system at all times.

(f) The water system shall contain no cross-connections.

(2) The following maintenance standards shall apply to all Limited Use Public Water ~~permitted~~ Systems:

(a) All components shall be in good repair and used as intended.

(b) Replacement of components shall be with new or like-new products, approved per subsection rule 64E-8.002(6), F.A.C. and equal to those originally approved.

(c) The vicinity within five (5) feet of the water system and well shall be free of vegetation, debris and hazards which could prevent or hinder inspection.

(d) If an emergency modification is performed, alteration occurs, the supplier must apply submit a completed Form DH 4092B to the Department for system modification per Rule 64E-8.002, F.A.C., on the next business day.

(e) The supplier shall record the date and type of all post maintenance and repairs performed on the system ~~repair dates and type~~ in a log kept on the premises.

(f) Systems vulnerable to vandalism shall be secured, but any enclosure shall not restrict visibility or authorized-access for inspection.

(g) The upper end of the well casing shall be watertight except for vents which shall be directed downward and protected with 20-mesh screen.

(h) Any chemical which could contaminate the water supply shall not be stored within twenty-five (25) feet of the well head unless the chemical container is in an additional, above-ground containment structure capable of containing the full volume of the chemical.

Specific Authority 403.862(1)(f), ~~381.001(4),(13), 381.006, 381.0062(1),(3)(a)~~ FS. Law Implemented ~~381.0012, 381.0061, 381.0067, 381.006(1),(2), 381.0062, 403.862(1)(f)~~ FS. History—New 1-1-93, Amended 8-20-96, Formerly 10D-4.028, Amended 1-26-98, 10-7-02, \_\_\_\_\_.

(Substantial rewording of Rule 64E-8.006 follows. See Florida Administrative Code for present text.)

64E-8.006 Water Quality Standards and Monitoring for Limited Use Public Water Systems.

(1) Water quality samples collected for compliance with this chapter, except chlorine residuals, shall be analyzed by a laboratory certified for the contaminant by the Department in accordance with Chapter 64E-1, F.A.C., and shall be analyzed using a Department-certified method for analyzing drinking water samples. Approved methods for analyzing drinking water compliance samples are available at the U.S. EPA Office of Groundwater and Drinking Water website at [www.epa.gov/safewater/methods/methods.html](http://www.epa.gov/safewater/methods/methods.html). Microbiological analyses shall be in accordance with those methods specified in 40 CFR 141.21(f). Chemical analyses shall be in accordance with those methods specified in 40 CFR 141.23(k).

(2) Analysis results of water quality samples collected for compliance with this chapter shall not exceed the following standards:

(a) Chemical Maximum Contaminant Levels (MCL) and Health Advisory Levels (HAL):

1. Lead – 0.015 milligrams per liter (mg/L).

2. Nitrate as N – 10.0 mg/L.

3. Other primary drinking water contaminant MCLs listed in Rule 62-550.310, F.A.C.

4. Drinking water HALs as defined in subsection 64E-8.001(8), F.A.C.

(b) Microbiological Maximum Contaminant Levels (MCL):

1. A total coliform MCL violation occurs when a total coliform test reveals the presence of total coliform bacteria in any compliance and repeat sample.

2. A fecal coliform MCL violation occurs when a fecal coliform or *E. coli* test reveals the presence of fecal coliform or *E. coli* in any compliance or repeat sample, provided the repeat test is positive for total coliform bacteria.

3. The supplier shall collect a repeat sample on the first business day following notification that coliform bacteria were present in the previous sample. Failure to provide a repeat sample to the laboratory by the deadline specified by the Department will result in use of the previous sample's results as if they were the repeat sample's results.

4. Unless coliform bacteria are present, a result of too numerous to count (TNTC), confluent or turbid with the absence of gas or acid, is invalid and the supplier shall collect a replacement sample on the next business day after notification of the invalid results.

(3) The following monitoring schedule applies to annually permitted Limited Use Public Water Systems:

(a) Analysis of water samples for Lead and Nitrate per paragraphs 64E-8.002(9)(c) and (d), F.A.C., is required once every thirty-six (36) months for Limited Use Community Systems, or once every sixty (60) months for Limited Use Commercial Systems. Such analyses shall be performed no more than 36 months or 60 months apart, respectively. The Department shall require more frequent chemical monitoring if analysis results indicate the presence of contaminants which may pose a threat to public health.

(b) One (1) microbiological analysis of a water sample from the distribution system is required once every calendar quarter (one sample during each of the following periods: January through March; April through June; July through September; October through December). Whenever possible, each quarterly sample shall be collected during the middle month of each period (February, May, August and November) in order to allow time for laboratory analysis and reporting of results.

1. When treatment includes disinfection, one (1) microbiological source water sample must also be collected on the same day as the distribution water sample.

2. The Department may increase microbiological analysis frequency to a monthly basis for a period of one (1) year or more if the water source or water system has a history of intermittent unsatisfactory microbiological analysis results.



(4) Additional analyses for contaminants shall be required for a system if:

(a) The well is located within a Department of Environmental Protection (DEP) delineated area under Chapter 62-524, F.A.C.

(b) The well is within one-thousand (1000) feet of a contaminated well or a known contaminant source.

(c) The analyses are required per Rule 64E-8.007, F.A.C.

(5) All Limited Use Public Water System suppliers shall report water sample analysis results to the Department within five days of receipt of the results. Analysis results for chemical samples required by paragraph (3)(a) above must be submitted no later than thirty (30) days after the time period in which the sample was required. Analysis results for microbiological samples required by paragraph (3)(b) above must be submitted no later than fifteen (15) days after the time period in which the sample was required. These reporting deadlines in no way change the compliance sampling time periods in which sample analysis is required to be performed by the supplier.

(a) Any chemicals or pathogens detected in concentrations that exceed a published MCL or HAL shall be reported by the supplier to the Department and removed by corrective actions taken by the supplier per Rule 64E-8.007, F.A.C.

(b) Laboratories must report to the supplier and to the Department all positive microbiological water sample analysis results and any water sample analysis results that exceed a published MCL or HAL no later than the end of the next business day after the result was determined, by telephone, facsimile, or e-mail. Positive fecal coliform or *E. coli* results must be reported to the supplier and to the Department as soon as possible, but no later than the end of the day in which the result was determined in accordance with subsection 64E-1.005(2), F.A.C.

(6) Fees charged to the supplier when samples are submitted by or through the Department for routine monitoring, for a well or water system clearance or for a private request shall include laboratory analysis costs for each sample analyzed, any locally mandated fees and shipping fees.

(7) Department staff may collect compliance samples upon a supplier's request for a fee of \$50 per microbiological sampling site visit, \$60 per chemical sampling site visit, or \$70 per combined chemical and microbiological sampling site visit, plus any locally mandated fees, laboratory analysis fees and shipping fees.

Specific Authority 403.862(1)(f), ~~381.0011(4),(13), 373.309~~, 381.006, ~~381.0062(1),(3)(a), 381.0202(3)~~ FS. Law Implemented ~~381.0012, 381.0061, 381.0067, 373.309(1)(e)6,~~ 381.006(1),(2), 381.0062, 403.862(1)(f), 381.0202(3) FS. History—New 1-1-93, Amended 8-20-96, Formerly 10D-4.029, Amended 1-26-98, 1-24-00, 11-13-00,

(Substantial rewording of Rule 64E-8.007 follows. See Florida Administrative Code for present text.)

64E-8.007 Corrective Actions.

Subsections (1) through (7) below apply to all Limited Use Public Water Systems. Chemical and microbiological MCLs and HALs are listed in subsection 64E-8.006(2), F.A.C. Disinfection of a water system as required by subsection (3) or (4) below to remove bacteriological contamination shall be accomplished by interrupting service and maintaining a minimum 50 mg/L solution of free available chlorine or its equivalent throughout the system for a minimum of three hours, then reducing the concentration to less than or equal to 4.0 mg/L prior to service being restored.

(1) When a microbiological sample analysis reveals the presence of coliform bacteria, the supplier must perform repeat testing within one (1) business day following notification as described in subparagraph 64E-8.006(2)(b)3., F.A.C.

(2) An acute risk to health exists when a chemical MCL or HAL violation occurs, or when a fecal coliform MCL violation occurs. Upon occurrence of such an acute risk, immediate action shall be taken by the supplier to prevent consumer exposure, and shall include:

(a) Written public notice to consumers per Rule 64E-8.008, F.A.C.

(b) For chemical MCL or HAL violations, provision of temporary access to an approved alternative source of water, or provision of one gallon per day per person of a state permitted brand of bottled water to consumers until a permanent solution is completed per subsection (5) below.

(c) For fecal coliform MCL violations, issuance of a boil water notice according to the *Guidelines for the Issuance of Precautionary Boil Water Notices* as referenced in paragraph 64E-8.005(1)(b), F.A.C. In addition, the supplier shall take those actions required in subsection (3) or (4) below.

(3) For total and fecal coliform MCL violations in the well, the supplier shall:

(a) Disinfect the system within twenty-four (24) hours of notification of the MCL violation, then within twenty-four (24) hours of disinfection, perform a five (5) sample microbiological well survey as described in paragraph 64E-8.002(9)(a), F.A.C. If the results are still unsatisfactory per subparagraph 64E-8.002(9)(a)2., F.A.C., then:

(b) Within ten (10) days of receipt of the test results, apply to the Department for a system modification permit per Rule 64E-8.002, F.A.C., for installation of continuous disinfection treatment equipment or construction of a new well. Then:

1. Install treatment equipment within fourteen (14) days of issuance of the modification permit, then within seven (7) days of equipment installation, perform a satisfactory two (2) consecutive day distribution system microbiological clearance,

or:

2. Construct a new well within fourteen (14) days of issuance of the modification permit, then within seven (7) days of well installation, begin a satisfactory five (5) sample

microbiological well survey as described in paragraph 64E-8.002(9)(a), F.A.C., and a two (2) consecutive day distribution system microbiological clearance.

(4) For total and fecal coliform MCL violations in the system, the supplier, within twenty-four (24) hours of notification of the MCL violation, shall verify the water quality of the system by collecting one (1) source water sample and one (1) repeat sample within the system at the same location that revealed the bacteria, then, if only the system still contains water violating the coliform MCL:

(a) Disinfect the system within twenty-four (24) hours of receipt of the confirmation test results, then within twenty-four (24) hours of disinfection, perform a two (2) consecutive day distribution system microbiological clearance. If the results are still unsatisfactory, then:

(b) Within ten (10) days of receipt of the test results, apply to the Department for a system modification permit per Rule 64E-8.002, F.A.C., for installation of continuous disinfection treatment equipment. Then:

1. Install treatment equipment within fourteen (14) days of issuance of the modification permit, then:

2. Within seven (7) days of equipment installation, perform a satisfactory two (2) consecutive day distribution system microbiological clearance.

(5) When a water sample analysis result for any chemical or contaminant listed in paragraph 64E-8.006(2)(a), F.A.C., exceeds a published MCL or HAL, the supplier shall:

(a) Perform a confirmation water sample analysis within fourteen (14) days of notification of the initial results, then if the MCL or HAL is exceeded again:

(b) Within thirty (30) days of receipt of the confirmation test results, apply to the Department for a system modification permit per Rule 64E-8.002, F.A.C., for installation of corrective treatment equipment or construction of a new well. Then:

1. Install treatment equipment within thirty (30) days of issuance of the modification permit. Then, if the treatment equipment is not actively managed and maintained by the Department of Environmental Protection's Water Supply Restoration Program, perform an analysis of the raw and treated water within seven (7) days after equipment installation and once every twelve (12) months thereafter. or:

2. Construct a new well within thirty (30) days of issuance of the modification permit, then perform an analysis of the raw water within seven (7) days after well installation and once every twelve (12) months thereafter.

(6) All modifications performed under this section must be inspected by the Department to verify compliance with the approved plans and with this chapter. Re-inspection requests must be accompanied by a \$40 fee.

(7) When corrective water treatment equipment is installed by the supplier of a Limited Use Public Water System as a result of chemical or coliform MCL violations, the owner may

remove such equipment, provided that the Department is notified prior to its removal and has confirmed that all required quarterly analyses of the raw water for the past twenty-four (24) months or monthly analyses of the raw water for the past twelve (12) months have been satisfactory.

(8) When water main breaks or other planned or unplanned disruptions of water service occur after the master meter within a Consecutive Public Water System that is excluded from coverage under the Florida Safe Drinking Water Act, the Department shall be notified by the supplier within twenty-four (24) hours of the disruption and corrective actions including disinfection, microbiological monitoring, public notification, and precautionary boil water notices shall be performed as described in Rule 62-555.340, F.A.C.

Specific Authority 403.862(1)(f), ~~381.0011(4),(13)~~, 381.006, ~~381.0062(1),(3)(a)~~ FS. Law Implemented ~~381.0011(8)~~, ~~381.0012~~, ~~381.0061~~, 381.0067, 381.006(1),(2), 381.0062, 403.862(1)(f) FS. History--New 1-1-93, Amended 8-20-96, Formerly 10D-4.030, Amended 1-26-98, \_\_\_\_\_.

64E-8.008 Public Notification.

When an acute health risk exists, ~~the~~ the supplier shall provide public notification as required in ~~subsection rules 64E-84.007(2)(b) and (5)(a) to consumers~~ as follows:

(1) Notices shall caution consumers not to consume the water, explain ~~the alternative as described in paragraph 64E-8.007(2)(b) or (c), F.A.C., based on the type of water quality violation,~~ and describe, in non-technical terms, ~~the nature of the violation and the supplier's corrective actions.~~ Notices shall include a contact name and phone number, and be ~~neatly printed in large type.~~

(2) ~~The supplier shall provide a copy of the printed notice to the Department within twenty-four (24) hours of notification of the water quality violation. Notices shall be neatly printed in large type and the supplier shall provide a copy to the county health department.~~

(3) The supplier shall deliver notices to consumers served by a Limited Use Community Public Water ~~or Private~~ System within ~~four (4)~~ 24 hours of ~~notification being notified~~ of the water quality violation.

(4) The supplier shall post notices at water outlets in Limited Use Commercial Systems within ~~four (4)~~ 12 hours of ~~notification being notified~~ of the water quality violation.

(5) The supplier shall take special actions where consumers are not capable of reading ~~printed material~~, such as verbal notification and disabling ~~of~~ water outlets. ~~Where non-English speaking persons consume the water, the notice shall be translated into the prevalent languages of the consumers.~~

(6) After all violations have been corrected per Rule 64E-8.007, F.A.C. ~~Upon departmental release of the system,~~ the supplier shall provide a notice to consumers that rescinds the original notice, in the same manner as required in ~~subsections rules 64E-8.008(1) through (5) above.~~

Specific Authority 403.862(1)(f), ~~381.0011(4),(13)~~, 381.006, ~~381.0062(1),(3)(a)~~ FS. Law Implemented ~~381.0011(8)~~, ~~381.0012~~, ~~381.0061~~, ~~381.0067~~, 381.006(1),(2), 381.0062, 403.862(1)(f) FS. History—New 1-1-93, Amended 8-20-96, Formerly 10D-4.031, Amended 1-26-98, \_\_\_\_\_.

#### 64E-8.009 Variances.

(1) The supplier of any Limited Use Public, Multifamily or Private Water System may request a variance from the requirements of this chapter by submitting the following to the CHD: ~~completing Form DH 4094 and submitting a statement regarding hardship, any other information necessary for rendering a decision and all information required by subsection 64E-8.009(3).~~ The burden of presenting pertinent and supportive facts shall be the responsibility of the applicant.

(a) A completed Form DH 4094 (Section I only), Application for Variance from Chapter 64E-8, F.A.C. Form DH 4094, effective 9/07, is hereby adopted and incorporated by reference, and can be obtained from the Department of Health, Division of Environmental Health/Water Programs at: 4052 Bald Cypress Way, Bin C22, Tallahassee, Florida 32399-1742, at [www.doh.state.fl.us/environment/water/manual/encl1.htm](http://www.doh.state.fl.us/environment/water/manual/encl1.htm), or from the CHD.

(b) A statement of hardship.

(c) A site plan. The plan shall be a minimum size of 8.5 x 11 inches and of sufficient clarity for reproduction.

(d) Any applicable well completion reports.

(e) Any applicable water quality analysis results.

(f) Any other information necessary for rendering a decision including information pertaining to the items listed in subsection (4) below. The burden of presenting pertinent and supportive facts shall be the responsibility of the applicant.

Upon receipt of all application materials, the CHD shall review such variance applications, make a recommendation to the Department by completing Section II of Form DH 4094, 9/07, and forward all application materials to the Division of Environmental Health/Bureau of Water Programs.

(2) Upon consideration of each application, and the recommendations of the ~~Water Management District and the CHD county health department,~~ the Department's Division of Environmental Health/Bureau of Water Programs ~~Deputy State Health Officer or his designee~~ has the authority to grant a variance, grant a provisional variance or deny the variance request. The ~~Department Deputy State Health Officer or his designee~~ will consider granting a variance to prevent excessive hardship in cases involving minor deviation from established standards, when the hardship was not caused intentionally by the applicant, where no reasonable alternative exists, and where proper use of the system will not adversely affect public health. ~~In making its decision, the department shall consider the factors in subsection 64E-8.003(4), F.A.C. Variances on new wells are not transferable to other persons and expire one year after approval unless a system or well construction permit~~

~~has been reissued.~~ Special consideration shall be given to lots platted prior to 1972 or granted a variance under ~~Chapter rule 64E-6, F.A.C.~~

(a) When approving a variance request, the Department may require provisos including, but not limited to:

1. Minimum well casing depth to achieve a satisfactory vertical separation from sanitary hazards, based on the depth and location of confining layers or other geological features.

2. Rotary well construction with full grouting of the well casing with neat cement or driven well construction with grouting of the top twenty (20) feet and bottom five (5) feet with neat cement, per subparagraph 62-532.500(2)(f)3. or 4., F.A.C.

3. Satisfactory water quality analysis for total coliform, Nitrate, or other likely contaminants of concern.

4. Increased water quality monitoring frequency for Limited Use Public Water Systems.

5. Installation of water treatment equipment.

6. Connection to a municipal public water system if one eventually becomes available.

(b) Variances for proposed water system construction expire eighteen (18) months after approval. The expiration date may be extended if necessary to coincide with the expiration date of the associated water system construction permit or well construction permit issued by the Water Management District or delegate agency.

(c) Emergency approval of variance requests may be granted by the Department's Division of Environmental Health/Bureau of Water Programs in cases of extreme hardship.

(3) For variances requests for involving private water system replacement wells only, for separations between fifty (50) and seventy-five (75) feet from a septic system or sanitary hazard as defined in subsection 62-532.400(7) Table 1, except those which are less than 50 feet from an OSTDS or less than 25 feet from a building foundation which has been chemically treated for pests and contains no impervious strata below the ground surface, the applicable CHD county health department administrator has the authority to grant a variance, grant a provisional variance or deny the variance request. The county health department administrator will grant a variance to prevent excessive hardship based on the same criteria specified in subsections 64E-8.009(2) above and (4), below.

(4) In granting or denying a variance, the ~~D~~epartment shall consider:

(a) Historical water quality.

(b) Age and condition of system components and the likelihood it will continue to provide potable water.

(c) Size of cone of influence and protection of source from contamination.

(d) Amount of deviation from these standards.

(e) Type and degree of consumer exposure.

- (f) Economic hardship.
- (g) Alternative potable water availability.
- (h) Geological characteristics of the well.

Specific Authority 403.862(1)(f), ~~381.0011(4),(13)~~, 381.006, ~~381.0062(1),(3)(a),(6)(a)~~ FS. Law Implemented 381.006(1),(2), 381.0062, 403.862(1)(f) FS. History—New 1-1-93, Amended 8-20-96, Formerly 10D-4.032, Amended 1-26-98, 1-24-00,\_\_\_\_\_.

64E-8.010 Prohibited Acts.

The following are prohibited:

- (1) Failure to conduct required sampling or testing, or falsification of results.
- (2) Intentionally or otherwise introducing a contaminant determined to pose a health hazard into a Limited Use, Multi-family, or Private Water System or its source.
- (3) Failure to meet schedules for compliance or corrective actions.
- (4) Failure to conduct required public notification or corrective action.
- (5) Impersonating a Department employee.

Specific Authority 403.862(1)(f), ~~381.0011(4),(13)~~, 381.006, ~~381.0062(1),(3)(a)~~ FS. Law Implemented ~~381.0012, 381.0025, 381.0061, 381.0067~~, 381.006(1),(2), 381.0062, 403.862(1)(f) FS. History—New 1-1-93, Amended 8-20-96, Formerly 10D-4.033, Amended 1-26-98, 11-13-00,\_\_\_\_\_.

64E-8.011 Services Provided.

Specific Authority 381.0011(13), 381.0202, 403.862 FS. Law Implemented 381.0202, 403.862 FS. History—New 1-1-95, Formerly 10D-4.100, Amended 11-13-00, Repealed\_\_\_\_\_.

64E-8.012 Schedule of Fines.

~~The department shall impose fines or pursue other enforcement action authorized by Sections 381.0012 and 381.0062, F.S.~~ The following maximum fines shall be imposed for violations of Chapter 64E-8, F.A.C., Each day that a violation occurs shall be considered ~~as~~ a separate violation:

- (1) Failure to obtain a ~~new~~ Limited Use Public Water System construction permit [a violation of subsection rule 64E-8.002(1)(2)], \$500.
- (2) Failure to obtain a ~~new~~ Multi-family Water System construction permit [~~a violation of Rule 64E-8.003(2)~~], \$250.
- (3) Failure to obtain a Limited Use ~~Commercial or Limited Community~~ Public Water System operating permit [~~a violation of Rule subsection 64E-8.004(1)~~], \$500.
- (4) Failure to obtain a Limited Use Commercial Public Water System Registration [a violation of subsection rule 64E-8.004(5)(6)], \$250.
- (5) Failure to maintain required chlorine residual levels [a violation of paragraph rule 64E-8.005(1)(d)], \$100.
- (6) Failure to comply with water quality system monitoring requirements [a violation of subsection rule 64E-8.006(3)(2)], \$250.

(7) Failure to take corrective actions when an MCLs or HAL is ~~are~~ exceeded (a violation of Rule 64E-8.007), \$500.

(8) Failure to provide public notification when an MCLs or HAL is ~~are~~ exceeded (a violation of Rule 64E-8.007), \$500.

Specific Authority ~~381.006, 403.862(1)(f), 381.0061(1)~~ FS. Law Implemented 381.0061, 381.0062 FS. History—New 1-1-95, Formerly 10D-4.101, Amended 1-24-00,\_\_\_\_\_.

64E-8.013 Cross-Connection Control.

- (1) Cross-connections as defined in subsection 64E-8.001(4)(5), F.A.C., are prohibited.
- (2) Any cross-connection involving a Limited Use Public, Multi-family, or Private Water System shall be corrected using the methods established in the within *Recommended Practice for Backflow Prevention and Cross-Connection Control*, American Water Works Association Manual M14, Third ~~Second~~ Edition, 2004 ~~1990~~, available from the American Water Works Association at: 6666 West Quincy Avenue, Denver, CO 80235 ~~hereby incorporated by reference~~.

Specific Authority ~~381.0011(4),(13)~~, 381.006, ~~381.0062(1),(3)(a)~~, 403.862(1)(f) FS. Law Implemented ~~381.0012, 381.0061, 381.0067, 381.006(1),(2)~~, 381.0062(1)-(3), 403.862(1)(f) FS. History—New 1-26-98, Amended 11-13-00,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Michelle Kearney  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Bob Vincent, (850)245-4240  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 13, 2007  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 22, 2006

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of Accounting and Auditing**

RULE NOS.:	RULE TITLES:
69I-73.001	Definitions
69I-73.002	Threshold for Recording Property
69I-73.003	Recording of Property
69I-73.004	Marking of Property
69I-73.005	Disposition of Property
69I-73.006	Inventory of Property

PURPOSE AND EFFECT: The purpose of the proposed rules is to implement Section 274.02, F.S., which authorizes the Chief Financial Officer to establish by rule the requirements for recording of local government owned property and for the periodic review of such property for inventory purposes.

SUMMARY: The proposed rules establish minimum recordkeeping and inventory requirements for county and district owned tangible personal property.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 274.02 FS.

LAW IMPLEMENTED: 274.01, 274.02 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Monday, December 24, 2007, 10:00 a.m.

PLACE: Room 430, Fletcher Building, Tallahassee, Florida  
Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Burton Marshall, (850)413-5588. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Burton Marshall, Chief, Bureau of Local Government, 200 East Gaines Street, Tallahassee, FL 32399-0354, (850)413-5588 or burton.marshall@fldfs.com

THE FULL TEXT OF THE PROPOSED RULES IS:

TANGIBLE PERSONAL PROPERTY OWNED BY  
LOCAL GOVERNMENTS

69I-73.001 Definitions.

(1) “Control Accounts” means summary accounts designed to control accountability for individual property records. Unlike individual property records which establish accountability for particular items of property, control accounts accumulate the total cost or value of the custodian’s property and, through entries to the control accounts documenting acquisitions, transfers and dispositions, provide evidence of the change in that total cost or value over periods of time as well as the total cost or value at any time.

(2) “Cost” means acquisition or procurement cost (i.e., invoice price plus freight and installation charges less discounts). In determining cost, the value of property exchanged by custodian in satisfaction of a portion of the purchase price of new property shall not be deducted from the full purchase price regardless of any property “traded in” on the new property.

(3) “Custodian” means, without limitation, any elected or appointed officer, board, commission or authority, or any other person or agency entitled to lawful custody of property owned by the local government.

(4) “Custodian’s Delegate” means a person acting under the supervision of the custodian to whom the custody of property has been delegated by the custodian and, from whom the custodian receives custody receipts.

(5) “Data Processing Software” has the meaning set forth in Section 119.011(6), F.S. Data processing software is not considered to be property within the meaning of these rules.

(6) “Depreciated Cost” means cost less accumulated depreciation.

(7) “Financial System” means the fund accounting process used by the local government for recording cash and other financial resources, expenditures and other financial uses, together with all related liabilities and residual equities or balances.

(8) “Fiscal Year” means the governmental unit’s fiscal year established pursuant to law.

(9) “Governmental Unit” has the meaning set forth in Section 274.01(1), F.S.

(10) “Identification Number” means a unique number assigned and affixed to each item of property to identify it as property held by the custodian and for the purpose of differentiating one item of property from another.

(11) “Property” has the meaning set forth in Section 274.02(1), F.S.

(12) “Unaccounted for Property” means property held by a custodian, subject to the accountability provisions of Section 274.03, F.S., which cannot be physically located by the custodian or custodian’s delegate, which property has not been otherwise lawfully disposed of.

(13) “Value” means the worth or fair market value at the date of acquisitions for donated property.

Specific Authority 274.02 FS. Law Implemented 274.01, 274.02 FS. History—New \_\_\_\_\_.

69I-73.002 Threshold for Recording Property.

All property with a value or cost of \$1,000 or more and a projected useful life of 1 year or more shall be recorded in the local government’s financial system as property for inventory purposes.

Specific Authority 274.02 FS. Law Implemented 274.02 FS. History—New \_\_\_\_\_.

69I-73.003 Recording of Property.

(1) Maintenance of Property Records – Governmental units shall maintain adequate records of property in their custody. The records shall contain at a minimum, the information required by these rules.

(2) Individual Records Required for Each Property Item – Each item of property shall be accounted for in a separate property record. Related individual items which constitute a single functional system may be designated as a property group. A property group may be accounted for in one record if the component items are separately identified within the

record. Examples of property items subject to group accountability include, but are not limited to, modular furniture, computer components, book sets, and similar association of items. All property group items, the total value or cost which is equal to or greater than \$1,000 shall be inventoried under this rule.

(3) Content of Individual Property Records – Each property record shall include the following information:

(a) Identification number.

(b) Description of item or items.

(c) Physical location (the city, county, address or building name, and room number therein).

(d) Name of custodian with assigned responsibility for the item.

(e) In the case of a property group, the number and description of the component items comprising the group.

(f) Name, make or manufacturer if applicable.

(g) Year and/or model(s) if applicable.

(h) Manufacturer's serial number(s) if any, and if an automobile, vehicle identification number (VIN) and title certificate number if applicable.

(i) Date acquired.

(j) Cost or value at the date of acquisition for the item or the identified component parts thereof. When the historical cost of the purchased property is not practicably determinable, the estimated historical cost of the item shall be determined by appropriate methods and recorded. Estimated historical costs shall be identified in the record and the basis of determination established in the governmental unit's public records. The basis of valuation for property items constructed by personnel of the governmental unit shall be the costs of material, direct labor and overhead costs identifiable to the project. Donated items, including federal surplus tangible personal property, shall be valued at fair market value at the date of acquisition. Regardless of acquisition method, the cost or value of a property item shall include ancillary charges necessary to place the asset into its intended location and condition for use. Ancillary charges include expenditures that are directly attributable to asset acquisition, such as freight and transportation charges, installation costs and professional fees.

(k) Method of acquisition and, for purchased items, the voucher and check or warrant number.

(l) Date the item was last physically inventoried and the condition of the item at that date.

(m) If disposed of, the information prescribed in Rule 69I-73.005, F.A.C.

(n) The local government may include any other information on the individual property record that the governmental unit may care to include.

(4) Control Accounts – A governmental unit-wide control account showing the total cost or value of the custodian's property shall be maintained. A governmental unit may keep

additional control accounts for property to the extent deemed necessary for different funds or sub-funds. Control accounts shall not be established by periodically summarizing the costs or values recorded on the individual property records. Rather, entries to control accounts shall be derived from documents evidencing transactions affecting the acquisition, transfer or disposition of property items and shall be posted contemporaneously with entries to the individual property records.

(5) Depreciation shall be recorded to meet local governments' financial reporting requirements relating to depreciation accounting. However, depreciation shall not be recorded on the individual property records or in control accounts in such a manner as to reduce the recorded acquisition cost or value (i.e., depreciation shall be recorded as an item separate from the acquisition cost).

Specific Authority 274.02 FS. Law Implemented 274.02 FS. History–New \_\_\_\_\_.

#### 69I-73.004 Marking of Property Records.

(1) Marking of Property – Each property item shall be permanently marked with the identification number assigned to that item to establish its identity and ownership by the governmental unit holding title to the item. The marking shall visually display the property identification number of the item and may include an electronic scanning code ("barcode") to facilitate electronic inventory procedures.

(2) Exemptions for Marking Property – Any item of property whose value or utility would be significantly impaired by the attachment or inscription of the property identification number, is exempt from the requirement for physical marking. However, the custodian's property records shall contain sufficient descriptive data to permit positive identification of such items.

(3) Location of Marking – Items of a similar nature shall be marked in a similar manner to facilitate identification. In determining a marking location, careful consideration shall be given to the intended use of the items; the probability that the marking could be obliterated by wear, vandalism or routine maintenance functions; and, the appropriateness of the marking method chosen. Additionally, the location of the marking and the marking method chosen shall not mar the appearance of the item. When utilizing an electronic scanning format system, electronic codes shall be placed on property in the same manner as other markings specified in this section.

Specific Authority 274.02 FS. Law Implemented 274.02 FS. History–New \_\_\_\_\_.

#### 69I-73.005 Disposition of Property.

(1) Methods of Disposition – Property within the meaning of these rules may be lawfully disposed of, as provided in Sections 274.05, 274.06 and 274.07, F.S. Property of the

governmental unit which is not accounted for during regular or special inventories shall be subject to the rules regarding unaccounted for property (See Rule 69I-73.006, F.A.C.).

(2) Required Information – The following information shall be recorded on the individual property record for each item lawfully disposed of, pursuant to Section 274.05, 274.06 or 274.07, F.S.:

(a) Date of disposition.

(b) Authority for disposition (resolution of the governing body properly recorded in the minutes as required by Section 274.07, F.S.).

(c) Manner of disposition (sold, donated, transferred, cannibalized, scrapped, destroyed, traded).

(d) Identity of the employee(s) witnessing the disposition, if cannibalized, scrapped or destroyed.

(e) For items disposed of, a notation identifying any related transactions (such as receipt for sale of the item, insurance recovery, trade-in).

(f) For property certified as surplus, reference to documentation evidencing that such property was disposed of in the manner prescribed by Section 274.05 or 274.06, F.S.

(3) Transfer of Property Records – The individual property record for each item lawfully disposed of as described in this rule shall be, upon disposition of the item, transferred to a disposed property file. Destruction of such records shall be governed by the provisions of Chapter 119, F.S.

(4) Control Account – The cost or value of items lawfully disposed of shall be removed from the control account at the time of disposition.

Specific Authority 274.02 FS. Law Implemented 274.02 FS. History–New \_\_\_\_\_.

#### 69I-73.006 Inventory of Property.

(1) Physical Inventory Required – Each governmental unit shall ensure a complete physical inventory of all property is taken annually and whenever there is a change of custodian or change of custodian’s delegate.

(2) Inventory Forms – The form used to record the physical inventory pursuant to Section 274.02(1), F.S., shall be at the discretion of the governmental unit. However, the form shall display at a minimum for each property item, the following information:

(a) Date of inventory.

(b) Identification number.

(c) Existence of property item (or not).

(d) Physical location (the city, county, address or building name and room number therein).

(e) Present physical condition.

(f) Name and signature of the employee or other individual attesting to the existence of the item.

(g) In the case of a property group, the number and description of the component items comprising the group.

(3) Electronic scanning format used for the identification number is acceptable only if the recorded data is downloadable to a computer and can then be used to generate reports that will include all information required on the hardcopy inventory form.

(4) Unrecorded Property – Any property item found during the conduct of an inventory which meets the requirements for accounting and control as defined in Rule 69I-71.003, F.A.C., and which item is not included on the inventory forms described above, shall have an inventory form created for the item when located. After appropriate investigation to establish the ownership of the item, it shall be added to the governmental unit's property records or, if ownership cannot be reasonably established, the item may be disposed of in the manner provided by law as applicable to surplus property, pursuant to Sections 274.05 and 274.06, F.S.

(5) Custodian Delegate Shall Not Inventory Certain Items – The custodian delegate shall not personally inventory items for which they are responsible.

(6) Reconciliation of Inventory to Property Records – Upon completion of a physical inventory:

(a) The data listed on the inventory forms shall be compared with the individual property records. Noted differences such as location, condition and custodian shall be investigated and corrected as appropriate or alternatively, the item shall be relocated to its assigned location and custodian in the individual property record.

(b) Items not located during the inventory process shall be promptly reported to the governmental unit which shall cause a thorough investigation to be made. If the investigation determines that the item was stolen, the individual property record shall be so noted, and a report filed with the appropriate law enforcement agency describing the missing item and the circumstances surrounding its disappearance.

(7) Unaccounted for Property – For items identified as unaccounted for and reported to the State’s Chief Financial Officer, recording of the items as dispositions, or otherwise removing of the items from the property records, shall be subjected to approval of the State’s Chief Financial Officer, as provided in Section 17.041, F.S., and Rule 69I-71.003, F.A.C.

Specific Authority 274.02 FS. Law Implemented 274.02 FS. History–New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Burton Marshall, Chief, Bureau of Local Government  
NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Doug Darling, Director, Division of  
Accounting and Auditing  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: July 31, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAW: August 17, 2007

**Section III**  
**Notices of Changes, Corrections and**  
**Withdrawals**

**DEPARTMENT OF REVENUE**

**Corporate, Estate and Intangible Tax**

RULE NO.:                    RULE TITLE:  
 12C-1.0221                Returns, Notices, and Elections;  
    Signing and Verification

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 41, October 12, 2007 issue of the Florida Administrative Weekly.

Subsection (1) of Rule 12C-1.0221, Florida Administrative Code, has been changed, so that, when adopted, the subsection will read as follows:

(1) A return, election, or notice required of a taxpayer shall be signed by an officer duly authorized to sign. A return or notice required of a taxpayer made by a fiduciary under subsection 220.22(3), F.S., shall be signed by the fiduciary. An officer's or fiduciary's signature on a return or notice made by or for a taxpayer shall be prima facie evidence that such individual was authorized to sign the return or notice on behalf of the taxpayer. The filing of a return that is not signed or that is improperly signed and verified ~~is may be~~ treated as a failure to file the return for purposes of starting the limitation period or for the imposition of penalty for failure to file.

Paragraph (c) of subsection (1) of Rule 12C-1.0221, Florida Administrative Code, has been changed, so that, when adopted, the paragraph will read as follows:

(c) Form F-7004 shall be signed by a person authorized by the taxpayer to request such extension. Such person must be an individual authorized under paragraph (a) or (b) to sign the taxpayer's return; a person currently enrolled as an agent under Treasury Department Circular Number 230 (herein incorporated by reference), to practice before the Internal Revenue Service; an attorney who is a member in good standing of the bar of the highest court of any state, possession, territory, commonwealth, or the District of Columbia; or any certified public accountant who is duly qualified to practice in any state, possession, territory, commonwealth, or the District of Columbia.

**DEPARTMENT OF TRANSPORTATION**

RULE NOS.:                    RULE TITLES:  
 14-22.002                    Regulations Covering Qualification  
    of Contractors  
 14-22.006                    Current Capacity Rating  
 14-22.015                    Forms

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 42, October 19, 2007 issue of the Florida Administrative Weekly.

SUMMARY OF CHANGE: The following changes are being made in response to a review by the Joint Administrative Procedures Committee:

1. 14-22.002 (1)(a) is changed to add form title, number, and date references for the online web application form as follows:

(a) Persons or firms who desire to qualify with the Department in order to bid for the performance of road, bridge, or public transportation construction projects in excess of \$250,000, shall file annually with the Department an Application for Qualification (Online Web Application), Form 375-020-38, 11/7/2007. An application for qualification shall be filed electronically on the website <http://www.dot.state.fl.us/cc-admin/default.htm>. Information regarding the electronic application, including a copy of the form, can be obtained by writing to the Department at the address listed below. Persons or firms may obtain information on how to obtain a user name and password to use the electronic application filing process by contacting the Contracts Administration Office at the address below. Persons or firms shall also file two hard copies of audited financial statements as required by this section via hand delivery or mail to Department of Transportation, Contracts Administration Office, 605 Suwannee Street, MS 55, Room 60, Haydon Burns Building, Tallahassee, Florida 32399-0455. For purposes of this rule, "filing" is defined as receipt of the application and audited financial statements by the Contracts Administration Office.

2. 14-22.006(3) is changed to add form title, number, and date references for the online certification of work underway form as follows:

(3) In order for the Department to have the information required to determine a bidder's Current Capacity, it is necessary that the bidder certify the total dollar amount of all work the bidder has underway. This certification shall be accomplished electronically by submitting Certification of Work Underway (Online Web Application), Form 375-020-39, 11/7/2007, to the Department concurrently with the bid submittal for the first letting in the calendar month that the bidder submits a bid.

3. 14-22.015 Forms is changed to include adding form title, number, and date references for the online web application and the certification of work underway forms: